

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND - CRIMINAL TERM - PART 12

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THE PEOPLE OF THE STATE OF NEW YORK,

-against-

Indictment
335/06

TALIYAH TAYLOR,

Defendant.

-----X

SANDOVAL
ANTON MARCHI
JURY SELECTION

County Courthouse
Staten Island, New York

October 6, 2008

B E F O R E:

HONORABLE ROBERT COLLINI,
Justice, Supreme Court.

A P P E A R A N C E S:

DANIEL DONOVAN, ESQ.,
Appearing for the People
District Attorney - Richmond County
BY: MARIO MATTEI, ESQ.
JANET SILVERS, ESQ.
Assistant District Attorneys

CHRISTOPHER RENFROE, ESQ.
JOSE ARUJO, ESQ.
For the Defendant

Proceedings

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1 THE CLERK: Calender number one on
2 the motion calendar, and calendar number
3 two on the trial calendar, indictment
4 335/06, People of the State of New York
5 against Taliyah Taylor.

6 Appearances, please.

7 MS. SILVERS: Janet Silvers.

8 MR. MATTEI: Mario Mattei.

9 MR. RENFROE: Christopher Renfroe
10 for Miss Taylor. Also for Miss Taylor,
11 Jose Arujo (sp)

12 MR. ARAUJO: Good morning, your
13 Honor.

14 THE COURT: Good morning, although
15 it is after noon.

16 We had adjourned today for trial.
17 Are both parties ready to proceed?
18 Counsel?

19 MR. MATTEI: Yes, your Honor.

20 MR. RENFROE: Yes, your Honor.

21 THE COURT: Before we do that, we
22 had a bench conference at which time there
23 had been an offer conveyed to Miss Taylor.

24 Mr. Renfroe, you were going to
25 discuss that with Miss Taylor, I believe,

Proceedings

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1 and her family, and then you were going to
2 tell me what the situation was.

3 MR. RENFROE: Your Honor, may I
4 just take one second to speak with Miss
5 Taylor?

6 THE COURT: Go ahead.

7 (Discussion held off the record.)

8 MR. RENFROE: Your Honor, I have
9 explained it to my client. I have
10 explained to her that she's charged with
11 murder, and that even if the judge were
12 willing to give less, the charge carries a
13 life sentence. I have also informed her
14 that --

15 THE COURT: The minimum on the
16 sentence would be fifteen years to life.
17 The maximum would be twenty five to life.

18 MR. RENFROE: Yes.

19 I have also explained to her that
20 there are not just the deceased, there are
21 other victims in a separate crash.

22 So that even if one were to succeed
23 in not being convicted of murder, there is
24 a potential that could run consecutive,
25 which indicates that she could do seven and

1 a half to 22 years.

2 THE COURT: It could run
3 consecutive, even if she were convicted of
4 murder.

5 MR. RENFROE: Yes. If she is
6 convicted, that could also run consecutive.
7 I explained that to her.

8 We had a conversation about the
9 defense, and if the defense proves
10 meritorious that there is a possibility
11 there is no date for which she would be
12 released, based on the fact she is
13 currently suffering from -- I think the
14 doctors that treat her think she is still
15 suffering from a mental disease or defect,
16 and there would have to be as finding that
17 she was no longer dangerous to allow her
18 release.

19 I explained that to Miss Taylor
20 again today. I saw her in Rikers. She
21 informs me she wishes to go forward and
22 proceed to trial.

23 I have also explained this to her
24 family. They met me in my office over the
25 weekend. I know they've had conversations

1 with her. I won't get into the substance
2 of that conversation, other than the fact
3 that we've advised her of the plea offer
4 which is determinate 15 years, and she has
5 informed me she wishes to proceed to trial.

6 THE COURT: Is that correct, Miss
7 Taylor?

8 THE DEFENDANT: Yes.

9 THE COURT: You understood when you
10 discussed the situation and the liability
11 with Mr. Renfro?

12 THE DEFENDANT: As we discussed two
13 different things when he came and see me
14 Sunday and discussed what he just now
15 discussed, but yes.

16 THE COURT: You understand that
17 there is an offer of 15 years?

18 THE DEFENDANT: Yes.

19 THE COURT: And you are not
20 interested in that?

21 THE DEFENDANT: I don't think that
22 that's a fair offer. So, no.

23 THE COURT: The question is whether
24 you are interested or not.

25 THE DEFENDANT: No.

1 THE COURT: So that's fine. Then we
2 will go to trial.

3 Do you have a witness list,
4 counsel? I received a witness list from
5 the People. I assume you received a copy?

6 MR. RENFROE: Yes, I did, your
7 Honor.

8 THE COURT: I would like a witness
9 list from the defense counsel.

10 MR. RENFROE: I have to add two
11 others on there.

12 THE COURT: Why don't we proceed to
13 Sandoval hearing before we proceed to that?

14 MR. RENFROE: Your Honor, before we
15 proceed to the Sandoval hearing, I just
16 wanted to make a motion to seal the
17 courtroom. I don't think it is a
18 procedure. We are discussing the
19 defendant's criminal history and especially
20 in this case.

21 MR. MATTEI: No, Judge.

22 THE COURT: For purposes of the
23 Sandoval hearing and the Sandoval hearing
24 only, exclude the press on behalf of both
25 parties.

Sandoval

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1 MR. RENFROE: May I approach?

2 THE COURT: Yes.

3 MR. RENFROE: I haven't had a
4 chance to make a copy for the district
5 attorney.

6 THE COURT: Dr. Berrill?

7 MR. RENFROE: Yes.

8 THE COURT: B e r r i l l .

9 Dr. Pabon?

10 MR. ARAUJO: Thomas M. Pabon.

11 (A side bar discussion was held off
12 the record.)

13 THE COURT: With respect to
14 Sandoval, counsel?

15 MR. MATTEI: Judge, the defendant
16 has a juvenile delinquent, was arrested and
17 charged with robbery in the second degree
18 for an incident in 1997, June of 1997, and
19 she was eventually convicted of grand
20 larceny from the person on July 30 of 1997,
21 adjudicated a juvenile delinquent.

22 THE COURT: July 30 of --

23 MR. MATTEI: 7-3-97.

24 THE COURT: Grand larceny --
25 received Y.O.?

1 MR. MATTEI: No, J.O. She received
2 a probation of nine months as a juvenile
3 delinquent.

4 During that incident, she and
5 another girl targeted a person to try and
6 steal their buss pass. I believe the
7 defendant held her while the other girl
8 beat her, and they took her bus pass and
9 then left.

10 THE COURT: Is that here in Staten
11 Island?

12 MR. MATTEI: Yes, your Honor.
13 Judge, in connection with that, which just
14 plays into some of the other aspects later,
15 the defendant was given her Miranda
16 warnings with her mother present, signed
17 the sheet and acknowledged her Miranda
18 warnings and gave a full statement as to
19 what she had done in that instance.

20 That just may play in because we
21 have the detective investigator who gave
22 her the Miranda Warnings, and we'd like
23 to -- he is on our list.

24 He is detective investigator
25 Michael Seminara, with regard to her

1 knowledge of Miranda warnings.

2 This may come in later with her
3 knowledge of Miranda warnings and thus the
4 voluntariness of her Miranda waiver in this
5 case.

6 That's one of the factors, Judge,
7 especially a knowing and --

8 THE COURT: Counselor, I am aware
9 they are defective.

10 MR. MATTEI: March 1st of 1999 she
11 was adjudicated a youthful offender in
12 Manhattan --

13 THE COURT: March 1st of 1999? A
14 Y.O. for what?

15 MR. MATTEI: It was for attempted
16 criminal possession of a weapon in the
17 second degree.

18 THE COURT: A felony?

19 MR. MATTEI: A felony. She received
20 five years probation. She was apparently
21 at a nightclub and she pulled a gun on a
22 security guard, and I think she pulled the
23 trigger, but the gun didn't fire.

24 She was charged with several other
25 things, that is what she was convicted of,

1 attempted criminal possession of a weapon
2 in the second degree.

3 She received five years probation
4 and she -- I believe the probation records
5 are in the file.

6 She violated that probation several
7 times thereafter, sometimes with drug
8 testing for bad drug testing and other
9 matters.

10 She was -- so, that's another
11 felony, your Honor. In 2000, April 27 of
12 2000, she was arrested for operating a
13 motor vehicle. Her ability to do so was
14 impaired by alcohol, 1192 sub 2 and on
15 10-26 of 2000 she was convicted of a VTL
16 1129.

17 THE COURT: Is this the same case?

18 MR. MATTEI: Yes, Judge.

19 THE COURT: What day was the
20 conviction?

21 MR. MATTEI: I believe 10-26 of
22 2000.

23 THE COURT: Convicted of DWI?

24 MR. MATTEI: Yes, your Honor.

25 THE COURT: A misdemeanor?

1 MR. MATTEI: Yes, your Honor, for
2 which she received, I believe she paid a
3 \$500 fine in lieu of receiving four months
4 in jail. Part of that involved her license
5 being suspended, and then eventually
6 getting a probationary license years later
7 after that was cleared up, after the
8 intoxication was cleared up.

9 She also has a speeding -- she has
10 several driving incidents, but most
11 particularly a speeding ticket which
12 resulted in her license being suspended,
13 and on July 31 of 2006 -- the ticket was
14 from June of 2006. Her license was
15 suspended July 31 of 2006, and not only
16 would that be a Sandoval question, your
17 Honor, I think that would spill over into
18 the Molineaux question with regard to the
19 status of her license on the day in
20 question, which was October 18 of 2006.

21 THE COURT: Is it your intention
22 to -- it is one of the charges.

23 Is it your intention to bring a
24 witness, one of the witnesses I think you
25 already indicated, that one of the

1 investigators, detective investigators or
2 something to that effect, I don't know.

3 Are you intending to bring a
4 witness in to testify that her license had
5 been suspended, detective investigators or
6 something to that effect?

7 MR. MATTEI: Yes, your Honor.

8 THE COURT: On particular days, her
9 license has been suspended twice?

10 MR. MATTEI: Yes, your Honor.

11 Once for the automatic suspension
12 with the driving while intoxicated
13 conviction, and then again in 2006 for the
14 speeding ticket, she was found guilty.

15 THE COURT: One of the counts is
16 driving with a suspended license.

17 MR. MATTEI: Yes, your Honor.

18 THE COURT: So the suspension that
19 led to that, or that's the subject of that
20 count is what suspension?

21 MR. MATTEI: Is the suspension of
22 her probationary license with regard to --
23 for receiving a ticket, for actually
24 receiving several things, but the final
25 straw was receiving a speeding ticket.

1 THE COURT: Then the suspension of
2 her license for the DWI has nothing to do
3 with this case?

4 MR. MATTEI: It starts the whole --

5 THE COURT: Answer the question,
6 counsel.

7 I don't want it starting with the
8 whole --

9 It has nothing to do with the
10 indictment before me.

11 MR. MATTEI: It does and it
12 doesn't, Judge. She is charged --

13 THE COURT: Either it does or it
14 doesn't.

15 MR. MATTEI: In my position it
16 does.

17 THE COURT: She was driving with a
18 probationary license and that license was
19 suspended prior to this incident, is that
20 correct?

21 MR. MATTEI: Yes, your Honor.

22 THE COURT: Then I don't understand
23 what the DWI has to do with this.

24 MR. MATTEI: She is charged with a
25 felony in which --

1 THE COURT: Felony?

2 MR. MATTEI: Yes.

3 THE COURT: When?

4 MR. MATTEI: On this date, it is in
5 this indictment.

6 THE COURT: In this indictment, but
7 we are talking about Sandoval at this
8 point.

9 MR. MATTEI: It fits in two ways,
10 your Honor.

11 THE COURT: The fact that she was
12 driving with a probationary license that
13 was suspended could be brought out on your
14 direct case.

15 I assume you intend to do that
16 because of the count in the indictment of
17 driving with a suspended license?

18 MR. MATTEI: Yes, your Honor.

19 THE COURT: So you intend to do
20 this?

21 MR. MATTEI: Yes, your Honor.

22 THE COURT: The fact that you had a
23 probationary license and that was
24 suspended, I assume there are going to be
25 witnesses on your direct case who are going

Sandoval

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1 to come in and do that.

2 We are talking about what you
3 should cross examine her with should she
4 take the stand.

5 My suggestion is you want to ask
6 her for a license that was suspended prior
7 to that suspension?

8 MR. MATTEI: Yes, your Honor.

9 THE COURT: Is there anything else?

10 MR. MATTEI: With regard to -- well,
11 Judge, just two other cases that we know
12 about where they were not prosecuted due to
13 30.30 in criminal court, but she had an
14 incident with her --

15 THE COURT: This is by way of
16 Molineaux application?

17 MR. MATTEI: It is Sandoval as well,
18 Judge.

19 THE COURT: They are convictions?

20 MR. MATTEI: No. I believe it is a
21 prior bad act which is falling under
22 Sandoval as well. I am just trying to
23 cover everything, Judge, so there are no
24 spaces.

25 I believe it fits into both. She

1 possessed an amount of cocaine, and I
2 believe eleven Ecstasy tablets in 2002.

3 At that time it was because she was
4 driving with a suspended license. That's
5 one of the reasons she was pulled over.
6 She had no seat belt, arrested for
7 suspended license, and then they discovered
8 drugs on her person in the police station,
9 ecstasy and cocaine.

10 THE COURT: You said there were two
11 things. What is the other thing?

12 MR. MATTEI: Cocaine and Ecstasy.

13 THE COURT: That was the same
14 incident?

15 One incident, two different types of
16 drugs?

17 MR. MATTEI: Yes.

18 THE COURT: Is that it?

19 Mr. Renfroe?

20 MR. RENFROE: Thank you, your
21 Honor.

22 I think I should start, first of
23 all --

24 THE COURT: Start from the Y.O., go
25 to the Y.O --

1 MR. RENFROE: Which is not a
2 conviction. It's a sealed family court
3 matter. If you would have thought it was a
4 conviction, but a finding in Family Court
5 which is over ten years old, I think any
6 probative value is outweighed by the
7 potential prejudice.

8 THE COURT: Move on to the Y.O..

9 MR. RENFROE: Your Honor, the
10 youthful offender conviction is a sealed
11 record. In that case, again, It's from
12 1999, asks a question about the age,
13 whether it actually represents -- it's
14 eight years old -- the facts --

15 THE COURT: What was the day of that
16 conviction? Was that 3-1-99?

17 MR. RENFROE: Yes, 3-1-99. The
18 case started in 1998, 513/98.

19 First of all, it is a sealed
20 record. It is she had a gun, he believes
21 she pulled the trigger --

22 THE COURT: I am not going to
23 include the underlying facts.

24 MR. RENFROE: Under the underlying
25 facts, there is no conviction because that

1 record is sealed. The conviction is
2 vacated by youthful offender finding. So,
3 there is no -- she received five years
4 probation on a felony conviction.

5 The youthful offender seals the
6 record.

7 THE COURT: I understand that. It
8 doesn't vacate the conviction.

9 MR. RENFROE: The People also wish
10 to elicit a charge of driving that they
11 have raised the driving under the
12 influence, which is exactly the crime here.

13 I think that goes directly to
14 propensity. Understand that they have
15 raised the driving while intoxicated as a
16 felony, and to allow them to bring the
17 charge as a felony, there is a stipulation
18 which we are allowed to enter into, not
19 saying that there is no -- that it's
20 properly elevated, but I don't believe they
21 should be allowed to --

22 THE COURT: Well, that's something
23 you are going to discuss if you want to
24 enter into the stipulation with respect to
25 the prior, other DWI which allows the

1 probation.

2 MR. RENFROE: That is fine. I am
3 entering into a stipulation, I will put it
4 on notice now.

5 THE COURT: We will do that
6 tomorrow. That doesn't mean I am not going
7 to let them talk about whether she was
8 convicted of a misdemeanor on that date.

9 MR. RENFROE: I understand. I think
10 that is a reasonable compromise.

11 I also indicate they wish to bring
12 out a speeding ticket --

13 THE COURT: We are not going to talk
14 about the speeding ticket.

15 MR. RENFROE: There is a question of
16 the bad act that they indicated, which is
17 the fact is that she had a fight with her
18 mother, and that was a dismissed case, and
19 she possessed cocaine and eleven ecstasy
20 pills --

21 THE COURT: That was a separate
22 incident, I believe, fight with the
23 mother --

24 MR. RENFROE: The fight with her
25 mother is a case that was dismissed. I

1 think that's not a proper subject to cross
2 examine, and --

3 THE COURT: They wanted to elicit
4 that on their direct case. That's the nature
5 of Molineaux.

6 MR. MATTEI: I didn't do the
7 Molineaux with regard to the drunk driving.
8 I didn't know to address that as well.

9 You told me just Sandoval. You
10 were going to -- you said it was the same
11 thing. So, I want to do it all.

12 THE COURT: No, that's okay. So you
13 are going to make a separate Molineaux
14 application when we are finished?

15 MR. MATTEI: Yes, Judge. We will
16 address that insofar as it relates to
17 Molineaux.

18 MR. RENFROE: There are two cases I
19 believe were dismissed, and so I would ask
20 your Honor not to allow them to go into
21 those matters.

22 THE COURT: I am not going to rule
23 on that. Move on.

24 MR. RENFROE: There is one other
25 question about whether it was elicited to

1 indicate she was doing drugs on probation
2 again.

3 One of the charges here is that she
4 took an ecstasy pill, and I think that
5 lends to the argument of propensity. So, I
6 would ask you to not allow the district
7 attorney to bring that out on their direct
8 case or to cross examine her on that
9 either.

10 THE COURT: Do the People want to
11 mention she took ecstasy when?

12 MR. MATTEI: Judge, it's clear from
13 the records that she took --

14 THE COURT: No, I am talking about
15 that case. I am talking about other than
16 this case.

17 MR. MATTEI: She told her doctors
18 that she took ecstasy every weekend for the
19 last four years. I assume when the doctors
20 testify, you will ask them.

21 We are talking about what we are
22 going to talk about her prior criminal
23 record. So, for Sandoval purposes, that --

24 THE COURT: All right. I
25 understand.

1 With respect to the Sandoval
2 application, should the defendant take the
3 stand, and dealing exclusively with the
4 prior criminal convictions, the People
5 would be allowed to inquire as to whether
6 or not on 3-1-00 the defendant was
7 convicted of a felony and whether or not on
8 10-28 of 2000 the defendant was convicted
9 of an A misdemeanor.

10 I want the defense to be cautioned
11 with respect to this ruling. Should the
12 defendant take the stand and make
13 representations as to prior activities that
14 she may have been involved with, make
15 representations as to drug use or lack of
16 drug use, should she make a representation
17 as to why she was convicted of these
18 felonies and has besides had to go to trial
19 now, and then by this, I mean should she
20 say something to the effect that "I pled
21 guilty to those cases because I was guilty,
22 but I am not pleading guilty now because I
23 am not guilty.

24 That's just one example that is not
25 exclusive of other ways that the defendant

1 could, in fact, open the door as to
2 underlying facts, not only these two cases,
3 but other cases that the People discussed.

4 At this point, they are limited,
5 but they are limited to the extent that the
6 defendant uses it to move beyond what we've
7 been just talking about.

8 It's not a sword nor a shield. It
9 is simply a court ruling, should it be used
10 as either, the People wish to read, open my
11 decision, it is my intention to hear an
12 application under those circumstances; is
13 that clear?

14 MR. RENFROE: That's correct, your
15 Honor.

16 THE COURT: I don't know if I made
17 myself clear.

18 MR. RENFROE: You did.

19 THE COURT: The reason I am
20 cautioning you is because I want the
21 defendant to know at this point we've been,
22 I believe, balanced in limiting the rest of
23 the inquiry that can occur should she take
24 the stand with respect to her prior
25 criminal activity which is more extensive,

1 I believe, than we are allowing in. But,
2 she use that someway to her advantage. I
3 will revisit this ruling and I don't think
4 I could be any more clearer than that.

5 Do you understand, Miss Taylor?

6 THE DEFENDANT: Yes.

7 THE COURT: Obviously if the People
8 believe, should Miss Taylor testify that
9 she's gone beyond the bounds of this
10 conversation, I will entertain an
11 application to reopen this area. Okay?

12 MR. MATTEI: Yes, your Honor.

13 THE COURT: With respect to
14 Molineaux, counsel?

15 MR. MATTEI: Judge, I think the
16 drunk driving conviction goes to the
17 defendant's state of mind on this night.

18 This is a case where they are --

19 THE COURT: It goes to one of the
20 counts in the indictment, and Mr. Renfro
21 has just indicated that he wants to
22 stipulate -- that he would stipulate to
23 that prior conviction.

24 Now we are going beyond that. Now
25 you are saying it is relevant for a

1 different purpose. It is actually relevant
2 to the murder charge and the two reckless
3 endangerment charges, separate and apart
4 from standing alone as a driver while
5 intoxicated is a felony.

6 It is relevant especially in this
7 case, your Honor, where there is an
8 insanity defense being interposed. This
9 goes directly to her state of mind.

10 THE COURT: In so far as this
11 reflects -- I want to separate this from
12 the insanity defense in so far as this
13 reflects on a finding of a doctor with
14 respect to her mental condition as it
15 relates to a disease or defect at the time
16 that this occurred.

17 I will hear you on that point. We
18 are talking about introducing this on your
19 direct case.

20 MR. MATTEI: To show --

21 THE COURT: Prior to an affirmative
22 defense being interposed.

23 MR. MATTEI: Yes.

24 THE COURT: Regardless of whether or
25 not they have opened on an affirmative

1 defense, they have no obligation to go
2 forward with it. You are talking about
3 apples and oranges here, or at least I am
4 interposing apples with oranges.

5 Should they put a doctor on who
6 wants to talk about her mental condition
7 and this becomes relevant, these items
8 become relevant with respect to that
9 diagnosis, certainly I will hear you at
10 that point, or I assume you will ask the
11 questions, and if there are objections we
12 will make a determination then, and it very
13 well could be relevant then as opposed to
14 introducing it independently with the
15 assumption that this is the way they are
16 going to go.

17 MR. MATTEI: Regardless of whether
18 they are going to go that way or not. I
19 think in and of itself, even though
20 Molineaux, as we know --

21 THE COURT: That is your
22 application.

23 MR. MATTEI: For the reason, Judge,
24 that it goes to her state of mind. This is
25 a case where she is charged with

1 recklessness and depraved indifference.

2 She was intoxicated by her own
3 admission on moonshine, homemade moonshine
4 is what she told the detectives. She drove
5 with no headlights on. She drove without
6 regard to traffic control devices, and she
7 crashed into a home on Victory Boulevard.

8 She went across a sidewalk and
9 across a walk --

10 THE COURT: You are not talking
11 about what is in this indictment?

12 MR. MATTEI: No, Judge.

13 THE COURT: You are showing what is
14 on prior --

15 MR. MATTEI: It is state of mind.
16 It is absolute direct proof of her
17 disregard for driving under the influence
18 of ecstasy on October 18, that everybody
19 could lecture about what could happen to
20 you while you drive while intoxicated.

21 She actually drove her car into a
22 home. She hit a house.

23 THE COURT: What is the next? Is
24 there another application other than this?

25 MR. MATTEI: I think that shows

1 that she, of all people --

2 THE COURT: Counsel, I understand
3 your argument. Is there another one?

4 MR. MATTEI: Just drug use, your
5 Honor; again the drug use.

6 THE COURT: Counsel?

7 MR. RENFROE: As to the prior charge
8 of driving under the influence of alcohol,
9 that goes directly to the propensity, and
10 the way they want to use it is to say see,
11 she did the same thing --

12 THE COURT: I am going to stop you
13 for a second. I am not going to let them
14 talk about that on their cross examination.

15 Should you of course bring in a
16 doctor and that become relevant as to the
17 doctor's diagnosis, certainly I will hear
18 the People at that point.

19 Prior drug use then making a
20 diagnosis as to mental disease or defect
21 may, in fact, be relevant, may be the sort
22 of thing that is something used by doctors
23 to make these kinds of diagnoses, and
24 certainly may, in fact, be something that
25 the doctor should be questioned on and may

1 be allowed to be questioned on.

2 I am going to reserve decision on
3 that. Obviously, if the People want to
4 bring that my attention, then we will talk
5 about it.

6 We are talking about using this on
7 their direct case, and I am not going to
8 let them use that on the direct case.

9 Deal with the DWI. I just want to
10 just add, before we go there, has the same
11 caveat as I just mentioned, prior DWIs,
12 prior driving, underlying facts pertaining
13 to prior incidents where someone has been
14 driving in a car under the influence,
15 certainly might be relevant to a doctor
16 making a diagnosis as to whether or not the
17 defendant suffers from a disease or defect.

18 That's a different issue that I am
19 not ruling on now. I would probably -- I
20 am just going to suggest to you -- probably
21 be inclined to allow those questions to
22 come in should the People be able to show
23 that they are pertinent to the diagnosis.

24 That's just preliminary at this
25 point. I will make a final ruling later,

1 but I don't want you to think that this
2 ruling somehow precludes that.

3 MR. RENFROE: I understand, your
4 Honor. Thank you.

5 THE COURT: I want to make that
6 clear. With respect to using the DWI under
7 direct examination, without any
8 interposition of an affirmative defense,
9 that is very different.

10 At this point, I am going to rule
11 that they can't bring that out. I don't
12 just -- I just don't see the nexus with
13 this particular case. This case is
14 going -- it is not about whether or not she
15 drove while she was drunk or reckless at a
16 different time. It is about whether she
17 was reckless to the point of being depraved
18 at this point in time, for this particular
19 incident.

20 I don't think whether she was
21 someone who was -- who evinced a depraved
22 indifference to prior life on a prior
23 occasion and was reckless on a prior
24 occasion, I don't see at this point it has
25 been tied in.

1 It may have to do whether she has
2 mental disease or defect. That is a
3 different issue, but as an independant act
4 of recklessness, I don't think it is
5 appropriate for this case at this point, so
6 I am going to deny that application with
7 the caveat that should they go forward with
8 an affirmative defense.

9 I will hear you with respect to
10 cross examination of that particular
11 witness or other witnesses with respect to
12 that, and also should the defendant
13 testify, these might be issues that would
14 arise at that point.

15 MR. MATTEI: I would also ask you
16 to keep an open mind, as I know you will,
17 with regard to cross examination of other
18 witnesses who may -- again, this is --
19 she's also charged with manslaughter as
20 well as the murder.

21 Again, I think you have heard my
22 argument and it really does go to her state
23 of mind, again, if you look at this charge
24 it is a conscious disregard for the lives
25 of others, and clearly to me somebody who

1 has already experienced driving a car with
2 passengers in an intoxicated condition,
3 crashes into a house, and my only point is
4 reiterating, if it comes up on cross
5 examination where she's made to look like
6 this was just something that happened, this
7 is not such a bad act, or that it was not a
8 disregard, that I should be able --

9 THE COURT: Obviously if this comes
10 up, I will hear you. If there is an effort
11 by the defense to show this as an isolated
12 aberrational inference, I may make it
13 relevant.

14 Counsel, I guess you would be
15 advised that should you make that argument,
16 I will hear the People if they want to
17 renew this application.

18 MR. RENFROE: Thank you. Your
19 Honor, just an issue --

20 THE COURT: That would be in the
21 nature of opening the door I suspect, and
22 clearly if that occurs, I will hear you at
23 that time.

24 MR. RENFROE: There is another issue
25 of -- I think entails, I don't know if I

1 should bring it up here. I think they
2 indicated that at the time of the arrest,
3 that she used a different name. I think it
4 is probably something that they intend to
5 use.

6 THE COURT: That was a statement
7 that she made. I think that was done
8 already.

9 MR. RENFROE: Right. I just wanted
10 to point that out. I am not going to argue
11 that point at this time or --

12 THE COURT: I understand your
13 position. The reality is that was
14 litigated when we did the Huntley hearing.

15 MR. RENFROE: You are not allowing
16 the speeding ticket in --

17 THE COURT: No. What I am allowing
18 is whether or not she was convicted of a
19 felony on 3-1-99, whether or not she was
20 convicted of an A misdemeanor on 10-26-00.

21 Obviously it there are questions
22 about that that open the door as to what
23 the nature of the A misdemeanor was, the
24 fact that it was a DWI might become
25 relevant.

1 If there are witnesses that take
2 the stand for the defense in support of
3 some affirmative defense that may be
4 proffered, if these go to the diagnoses of
5 mental disease or defect, I will hear the
6 People and I will hear their witnesses, and
7 I will certainly consider whether or not it
8 is relevant to that sort of thing.

9 There will be appropriate
10 admonitions to the jury, should it be
11 relevant and for the purposes of its
12 relevance as far as making your diagnoses,
13 as opposed to propensity or some other
14 connection to this particular case.

15 They've been precluded from talking
16 about it on their direct case, unless, of
17 course, ask questions that seem to lead --
18 to mislead the jury into believing this was
19 an abberational conduct or something
20 somehow related to that.

21 Anything else?

22 MR. RENFROE: The only thing is
23 just as to the allowing them to ask about
24 whether she was convicted of a felony, I
25 would just ask you to reconsider that so YO

1 adjudication. I think it vacates the
2 felony conviction.

3 THE COURT: It is a prior
4 conviction. I am going to let them talk
5 about -- I am not letting them get involved
6 with the underlying facts. Obviously if
7 you want to mention whether or not she was
8 given a youthful offender adjudication with
9 respect to that, that she violated on
10 several occasions, I am not allowing them
11 to talk about that.

12 I will allow you to ask the
13 question as to whether or not she was given
14 a youthful offender adjudication if you
15 want to, but I am going to allow them to
16 ask her whether on 3-1-99 she was convicted
17 of a felony, and whether or not on 10-26-00
18 she was convicted of an A misdemeanor.

19 That is the extent of the Sandoval
20 ruling and the extent of their cross
21 examination of the defendant with respect
22 to that particular issue, and also as I
23 have indicated before, without her opening
24 the door in the ways that we've mentioned
25 and otherwise. She should be cautioned

1 that is a possibility.

2 With respect to Anton Marchi, have
3 we discussed that? I think we have a
4 waiver?

5 (A side bar discussion was held off
6 the record.)

7 THE COURT: I have a document in
8 front of me entitled Waiver of right to be
9 present at Voir Dire side bar conferences
10 commonly referred to as Anton Marchi
11 Waiver.

12 Miss Taylor, did you discuss this
13 with Mr. Renfroe?

14 THE DEFENDANT: Yes.

15 THE COURT: This indicates that you
16 have a right to be present at side bar
17 conferences at which time the
18 qualifications of jurors to serve as jurors
19 in this trial will be discussed.

20 You are waiving that right. This
21 has indicated that you are waiving that
22 right after I have indicated that you have
23 it, and you've discussed it with your
24 attorney, Mr. Renfroe, and you are waiving
25 that right voluntarily, knowingly and of

1 your own free will, is that correct?

2 THE DEFENDANT: Yes.

3 THE COURT: Do you understand what
4 right you are waiving?

5 THE DEFENDANT: Yes.

6 THE COURT: There is a line that
7 says Defendant and above that line there is
8 a signature that reads Taliyah Taylor; is
9 that your signature?

10 THE DEFENDANT: Yes.

11 THE COURT: Mr. Renfroe, is it your
12 professional opinion that after discussing
13 Anton Marchi rights with Miss Taylor, she
14 has voluntarily, knowingly and of her own
15 free will waived those rights?

16 MR. RENFROE: Yes.

17 THE COURT: Above that line there is
18 a signature which reads Christopher
19 Renfroe; is that your signature?

20 MR. RENFROE: Yes.

21 THE COURT: I am going to approve
22 the waiver, and I am of the opinion that
23 the defendant has voluntarily, knowingly
24 and of her own free will, after discussing
25 what are commonly referred to as Anton

1 Marchi rights with her attorney, has freely
2 and voluntarily waived those rights, and I
3 am going to affix my signature to the
4 document.

5 MR. MATTEI: Because of the issues
6 in this case, I don't know about asking
7 prospective jurors as to whether or not
8 they have any experience -- with regard
9 family, close friends -- to any type of
10 mental illness.

11 THE COURT: If you have a couple of
12 questions you want me to ask the panel as a
13 whole, give them to me after lunch. Both
14 sides; okay? You might have other things
15 you want me to ask them with respect to
16 newspapers, whatever.

17 MR. RENFROE: As to this record and
18 no other, could I just ask that it be
19 sealed?

20 THE COURT: Counsel?

21 MR. MATTEI: No objection, your
22 Honor.

23 THE COURT: So ordered. 2:20.

24 (Whereupon, a luncheon recess was
25 taken at 1:00 p.m.)

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1 A F T E R N O O N S E S S I O N

2 THE CLERK: Calendar number one and
3 two, indictment 335/08, People of the State
4 of New York against Taliyah Taylor.

5 THE COURT: First order of business,
6 Mr. Mattei. You handed over a list of
7 Rosario material along, I assume, with the
8 Rosario material.

9 MR. MATTEI: Yes, Judge, that was
10 the point of making the list up and to file
11 with the Court. I gave Mr. Renfroe two
12 packages of stuff.

13 I believe he had a lot of it
14 already from discovery materials, but I
15 just went through the file to look for
16 things that would now be Rosario material
17 irrespective or not whether he had received
18 them yet.

19 THE COURT: Mr. Renfroe, you
20 acknowledge receipt of those.

21 MR. RENFROE: I do acknowledge
22 receipt of the Rosario material, Judge, and
23 I signed for them.

24 THE COURT: The list I had dated,
25 and we will make a part of the Court file.

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1 THE CLERK: Correct, your Honor.

2 THE COURT: Mr. Renfro, if you go
3 through the list that you have, and if
4 there is anything on the list that you do
5 not have, just bring it to my attention
6 tomorrow and before we open, and I will
7 make sure that the People get you a copy of
8 everything that you believe you didn't get.

9 So, just cross reference all of the
10 papers you have with the list and we will
11 make sure that you got everything.

12 Both sides ready for jury
13 selection?

14 MR. RENFROE: Yes, your Honor.

15 MR. MATTEI: Yes, Judge.

16 MR. RENFROE: I have one other minor
17 issue.

18 THE COURT: How about before we do
19 that, why don't we --

20 MR. RENFROE: That is the issue.
21 The gentleman is here who came in with --
22 he actually sent over a fax earlier today,
23 and he's here --

24 THE COURT: Put your name on the
25 record and tell us what you do.

1 MR. MESSINA: On behalf of Elmhurst
2 Hospital in New York City Health and
3 Hospitals Corporation, Matthew Messina from
4 Heidel, Pittoni, 99 Park Avenue, New York,
5 New York.

6 Pursuant to my appearance before
7 yourself on Friday, October 3, I spoke to
8 Dr. Martin Mann who is the Deputy Director
9 of the Psychiatric Department in Elmhurst
10 Hospital regarding the whereabouts of Miss
11 Taylor's forensic file, and he explained to
12 me that it is irreparably lost and was
13 discarded by an employee of Elmhurst
14 Hospital, Miss Kelsey Ann Smith, sometime
15 in January or February of 2008.

16 It was inadvertent. Certainly they
17 did not realize that the Court was looking
18 for those documents at the time that they
19 were discarded. There is no way to
20 reproduce them.

21 The Court order inquired as to what
22 was available on the computer system. I
23 determined by Dr. Marro (sp) there was
24 nothing on the computer system. The only
25 thing I recognized was the medical

1 treatment.

2 Dr. Marro contacted the Forensic
3 Court Clinic, I guess, at Elmhurst Hospital
4 and they determined the only record of Miss
5 Taylor being examined was December 7, 2006
6 report by Dr. Pabon.

7 THE COURT: That report has already
8 been turned over to the People.

9 MR. MESSINA: Yes, that's correct.
10 I obtained a copy of the report for my file
11 from the District Attorney's office.

12 MR. RENFROE: May we approach?

13 THE COURT: Sure.

14 (A side bar discussion was held off
15 the record.)

16 THE COURT: There is a forensic file
17 for Miss Taylor. Is there one forensic
18 file for her that's been discarded?

19 MR. MESS: Yes.

20 When the exam was done pursuant to
21 Criminal Procedure Law 730, there is a
22 separate file created, and the file created
23 for Miss Taylor is no longer available.

24 THE COURT: If doctors other than
25 Dr. Wang put notes in that file, they would

1 have been discarded too.

2 MR. MESSINA: Anything that would
3 be related to that purpose, competency
4 evaluation, would end up in the "for file"
5 and that is gone.

6 THE COURT: So, any doctor who makes
7 notes with respect to the competency
8 evaluation, Dr. Wang and Dr. Pabon, are
9 gone.

10 MR. MESSINA: That's correct, and,
11 in fact, they had created notes. Whether
12 or not they said they did, I have no other
13 information regarding whether the other
14 physician did.

15 But, if he did and they were put in
16 the file, they are gone.

17 THE COURT: If I may, could we
18 see -- Dr. Thomas Pabon still works at
19 Elmhurst Hospital?

20 MR. MESSINA: I am not certain. He
21 would not be an employee of the hospital.
22 He would be an employee of the Mount Sinai
23 School of Medicine as all physicians of the
24 Elmhurst Hospital are, and he may still be
25 on site. I can find that out.

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1 MR. MATTEI: Perhaps we can see if
2 he has any personal copy of his own notes.
3 Maybe he didn't put them in the forensic
4 file.

5 THE COURT: Perhaps you can.

6 MR. MATTEI: Perhaps Mr. Messina
7 can ask.

8 THE COURT: Counsel, I am not going
9 to go on a fishing expedition for your
10 office. If you want to call the hospital,
11 call Dr. Pabon, whatever you want to do,
12 with respect to those particular notes, if,
13 in fact, they exist, my advise would be do
14 whatever you think is appropriate.

15 I am not going to order him to get
16 something that wasn't part of the original
17 order to show cause, and that had to do
18 with the forensic file at Elmhurst
19 Hospital.

20 Thank you. Let's bring in the
21 panel.

22 (Panel of prospective jurors enter
23 the courtroom.)

24 (The following discussion was held
25 at the side bar:)

1 THE COURT: Let the record reflect
2 we are having a side bar outside the
3 presence of the prospective panel.

4 I think Mr. Mattei knows this.
5 We've done this before. If a juror is
6 excused by the Court, if you have any
7 objection to that juror being excused, just
8 ask to approach and we will make that
9 objection outside the earshot of the jury,
10 just so you don't have to object to it in
11 front of the jury itself.

12 If I don't hear an objection, I
13 will assume there is no objection to that
14 juror being discharged.

15 Understood, Mr. Mattei? That is
16 the way we've done that before. Mr.
17 Renfroe, is that understood?

18 MR. RENFROE: Yes.

19 THE COURT: Any objection to that?

20 MR. RENFROE: No.

21 THE COURT: That way we don't have
22 to make our objection in front of
23 everybody. We can do it on the record if
24 you like, at the side bar or outside the
25 earshot of the jury, all right?

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1 (In open Court:)

2 THE CLERK: Jurors, please rise.

3 (Whereupon, a panel of prospective
4 jurors were sworn by the Clerk of the
5 Court.)

6 THE COURT: Good afternoon, ladies
7 and gentlemen. My name is Justice Robert
8 Collini. I am going to be the judge that
9 presides over the trial that is about to
10 begin.

11 Some of you are about to be
12 selected as jurors in this case. Turn off
13 all of you cell phones. Turn them off if
14 you have them, okay? Everybody make sure
15 they are all off.

16 In the next few minutes, I am going
17 to briefly explain what role I play in this
18 trial and what role you, as jurors, play.

19 Then we are going to determine
20 which of you are going to actually sit as
21 jurors in this case.

22 The trial that is about to be
23 commenced is a criminal action. It is
24 entitled the People of the State of New
25 York against Taliyah Taylor who is called

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1 the defendant.

2 This case involves allegations that
3 the defendant committed the crime of murder
4 in the second degree. We'll be working on
5 this case for a while longer today,
6 tomorrow afternoon at two o'clock,
7 Wednesday, I believe Thursday, but we will
8 see --we may or may not be working on
9 Thursday -- Friday, we will be working all
10 next week.

11 This case should take approximately
12 two weeks, from beginning to end. The
13 following names are prospective witnesses,
14 or names that may appear during the course
15 of the trial.

16 Audrey Simon, Ignazio Giuffre,
17 Crystal Ann Sullivan, Anselmo Gadraj,
18 Vincent Cavalieri, Jeanette Cavalieri,
19 Jeffrey Hausman, Nicholas Swift, Derrick
20 White, Lisa Franklin Zaida, Howie Hoaglund,
21 Police Officer Robert Albano, Police
22 Officer William Bartel, Mercy T. Walsh,
23 Cheryl McQuicken, Police Officer Wogit,
24 Emanuel Saldivias, Detective Tony Racioppo,
25 Police Officer Adeni Zaparo, Ricardo

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1 Corretjer, David Park, Detective John
2 Signorelli, Michael McGee, Dr. Kristen
3 Roman, Dr. Gregory Bunt, Dr. Miles
4 Schneider, Dr. Jose Casatian, Paul Barone,
5 Police Officer Terrance Hogan, Detective
6 investigator Michael Seminara, Phillip
7 Spitler, Dr. Otis Woikowski, Dr. Berrill,
8 Dr. Pabon, Dr. Clark, Lee Barnett, Barbara
9 Morgan, Dr. Titus Oakinola, Malia Roe,
10 Tricia Matthews, Dr. Richard Wang.

11 All of those people are probably
12 not going to be witnesses, but they are
13 names that you may hear during the course
14 of this trial.

15 This case involves allegations that
16 a crime was committed on October 18, 2006
17 at approximately 10:45 p.m. at Forest
18 Avenue at Samuel Place.

19 This trial is the process by which
20 we determine whether or not the charges and
21 allegations can be proven by sufficient
22 evidence. In that process, those of you
23 who are selected as jurors and I as the
24 Judge perform separate functions.

25 As jurors, you are going to

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1 determine whether or not the evidence that
2 you hear and see during the course of the
3 trial can establish the defendant's guilt
4 of the charges.

5 In order to do that, it will be
6 your job to evaluate that evidence at the
7 end of the trial and determine whether or
8 not what you have heard from the witnesses
9 and seen as exhibits is true; then what
10 that means. That's called the finding of
11 facts. That's the exclusive function of
12 the jury.

13 My role at the trial is to ensure
14 that you do your job in accordance with the
15 law. I will explain to you what the law is
16 with respect to any issue that might arise
17 during the course of the trial.

18 The People in this case are
19 represented by the District Attorney of
20 Richmond County, Assistant District
21 Attorneys Mario Mattei and Janet Silvers.

22 (Rise and face the jury.)

23 THE COURT: The People will be
24 presenting evidence to you.

25 The defendant in this case is

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1 represented by Mr. Christopher Renfro.

2 (Rises and faces the jury.)

3 MR. RENFROE: Good afternoon,
4 ladies and gentlemen.

5 THE COURT: Mr. Jose Araujo.

6 (Rises and faces the jury.)

7 THE COURT: In every criminal case,
8 the burden of proving the charges rests
9 with the prosecution. The prosecution must
10 prove the defendant's guilt with respect to
11 each of the elements of the crimes charged
12 beyond a reasonable doubt.

13 That's because in every criminal
14 case, the defendant is presumed to be
15 innocent, and cannot be found guilty until
16 or unless the prosecution has proven the
17 charges beyond a reasonable doubt.

18 In our country, it is the accuser,
19 person who makes the accusation, who has an
20 obligation to prove that accusation. No
21 defendant is required to prove his or her
22 innocence.

23 Now, these terms, presumption of
24 innocence, reasonable doubt, burden of
25 proof will be defined in greater detail at

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1 the end of the trial. If you are selected
2 to serve as jurors, you will hear a more in
3 depth definition.

4 But, suffice it to say that since
5 the defendant is presumed to be innocent,
6 it follows that a defendant in a criminal
7 trial is not required to testify. His or
8 her decision not to testify would not be a
9 factor which you can hold against the
10 defendant when you decide the case.

11 Now, in order to be considered as a
12 juror in this case, you must be free from
13 any and all bias and prejudice.

14 What that means is that you can't
15 allow personal beliefs about a race or a
16 group of people to cloud your judgment or
17 influence your decision.

18 In my opinion, it is more honorable
19 and it shows more courage for a potential
20 juror to tell me at the bench, or to tell
21 me at all they've had prior experiences
22 with members of a particular race or group
23 of people, and that they won't be able to
24 set those experiences aside during the
25 course of the trial.

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1 If that's your situation, let me
2 know. This applies to all areas of
3 potential bias.

4 In addition, there are members of
5 our community who don't believe that people
6 should be incarcerated for particular
7 offenses, or even prosecuted for those
8 offenses such as narcotics offenses, and
9 there are others who believe that the
10 criminal justice system discriminates
11 against one ethnic or racial group or
12 another.

13 If that is your opinion, let me
14 know. These opinions don't necessarily
15 make you a bad person, but they will
16 exclude you from being a fair juror.

17 What we want to do is get a jury
18 that is not only free from bias and
19 prejudice, but free from being on a
20 political mission or crusade to support an
21 idea that they personally feel strongly
22 about.

23 If anyone has any of these issues,
24 it is your duty to let me know. During the
25 course of this trial, we are going to hear

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1 testimony from police officers. It will be
2 your job to weigh, in other words, to judge
3 the testimony of police officers who appear
4 before you.

5 This means that you are going to
6 have to determine whether or not police
7 officer witnesses are telling you the truth
8 in whole, in part, or not at all.

9 Just as we exclude jurors who are
10 biased and prejudiced, there is no place in
11 this courtroom for someone who has a
12 preconceived notion about the truthfulness
13 of the police.

14 I know that there are people
15 because of their prior experiences with the
16 police or perhaps because they've heard
17 accounts from the media who believe that
18 all police officers are dishonest, they are
19 not worthy of your belief. If that is your
20 opinion, let me know.

21 Similarly, there are people who
22 have had positive experience with the
23 police. A lot of people who have relatives
24 who are police, and they could never
25 envision a police officer ever lying or

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1 making a mistake. If that's your opinion,
2 let me know. Police officers have to be
3 judged just like any other witnesses.

4 Serving on a jury is a vital
5 function for citizens under our system of
6 law. It is also a very great
7 responsibility and that is to accord the
8 defendant and the People a fair trial.

9 In order to do this, you must be
10 free from any preconceived notions or
11 sympathies that might prevent you from
12 returning a fair and just verdict based
13 solely on the evidence or lack of evidence
14 as its presented in the courtroom.

15 To help ensure this, our first
16 order of business is to conduct an
17 examination of you, the jurors. When I am
18 finished speaking, we are going to call out
19 the names of some of you that will be
20 seated in the jury box. I will ask you
21 some questions.

22 After that, the attorneys have a
23 very brief opportunity to ask some
24 questions also. The purpose of these
25 questions is going to be to determine

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1 whether or not this is the right case for
2 you to sit on.

3 Most of you will not be selected
4 as jurors in this case. Not being selected
5 will not be a reflection on you as either a
6 citizen or as an individual. It would
7 simply be a determination by one or more of
8 the parties or by the Court that this
9 wasn't a good case for you to sit on.

10 At this point usually I tell you
11 how I feel about what you folks do when you
12 come into my courtroom to serve as jurors.
13 I have stopped doing that lately because I
14 just think that it's better if you make up
15 your own mind instead of listening to me.
16 But I guarantee you, after I have heard a
17 few of you, there is the possibility that I
18 will tell you how I feel about what you do
19 here.

20 I personally believe -- I will just
21 give you a few minutes, maybe less than
22 that -- I personally believe it's a great
23 honor to be a juror. It's a great
24 responsibility but it's also a great honor.

25 I think that what society does in

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1 this country, by allowing folks like you,
2 ordinary folks like you to come into my
3 courtroom or any courtroom like mine that
4 does criminal trials and allow you folks to
5 make a determination as to whether or not
6 someone in your community who is accused of
7 a crime is guilty or innocent of that
8 crime, that is a great honor to be allowed
9 to do that.

10 By doing that, what you do is you
11 guarantee the freedom of everybody in the
12 community that you live in.

13 You make sure that when someone is
14 accused of a crime, that they get a fair
15 and an honest trial, judged by ordinary
16 citizens just like you.

17 I can't imagine a greater honor
18 that a community can bestow upon its
19 citizens than allowing them to make these
20 important, truly important decisions. But,
21 more than that, what you are doing, do is
22 you protect our freedom. You make sure that
23 it's not just folks like me who make
24 choices, people who sit in robes like this
25 who have black robes on who say whether

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1 somebody is innocent or guilty.

2 You do that. You folks should be
3 proud to do this. This is not only your
4 civic duty but it is a great responsibility
5 and it protects, like I said, it protects
6 the freedom of not only you but of your
7 children.

8 It protects the freedom of your
9 spouses, of your relatives who live in
10 Staten Island. It is a great honor.

11 I get a little aggravated sometimes
12 when I see people who just don't want to be
13 bothered. They want to let someone else
14 have that responsibility and they could
15 care less. I think they don't understand
16 how important it is. I guess sometimes
17 those folks just take the freedom that you
18 have for granted and they are the kind of
19 people who let other people protect their
20 freedom.

21 This isn't a big deal. I am not
22 asking anybody to go to Iraq. I am just
23 asking you to sit with us for two weeks.
24 You are going to get paid for it too,
25 probably not as much as you make when you

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1 work, but you are going to get paid, and
2 you just come in and you help us make a
3 really crucial decision in a very
4 responsible way.

5 I hope you will agree with that
6 when I ask you if you want to sit down and
7 work with us for a couple of weeks.

8 Now all we are going to do is ask
9 you questions. So, all I am going to be
10 asking you now is whether or not you want
11 to sit down and have a few questions asked
12 to you.

13 I would hope that most of you would
14 at least let us do that before you say to
15 me I don't want to be here. All right?
16 So, take that into consideration when we
17 call your name, please. It will certainly
18 make me feel a lot better if you do that,
19 and just remember this is an honor to be
20 allowed to do this. It is not an
21 imposition. I know most of you folks think
22 it's just a great imposition on your life,
23 but if you don't do it, who is going to
24 protect your freedom?

25 In any event, I have already spoken

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1 too long. All right, at this point we are
2 going to call the names of twenty people
3 and they will be asked -- I am going to ask
4 you two questions. When I am finished, you
5 will be asked to take a seat in the jury
6 box and then we will ask you some more
7 questions.

8 MR. MATTEI: Just one thing
9 quickly.

10 (A side bar discussion was held off
11 the record.)

12 THE COURT: Also one of the names
13 that you most likely will hear during the
14 course of this trial is Larry Simon. Larry
15 Simon.

16 THE CLERK: Elias O. Akuredolua.

17 THE COURT: How are you, sir?

18 JUROR: I am fine.

19 THE COURT: How do you feel today?
20 Feel good?

21 JUROR: Yes.

22 THE COURT: Is there anything you
23 want to tell me about yourself that you
24 think would affect your ability to be fair
25 and impartial?

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1 JUROR: No.

2 THE COURT: Take seat number one.

3 THE CLERK: Elias, E L I A S O.

4 Akeredolua, A K E R E D O L U A.

5 Take seat number one.

6 THE CLERK: M I S E A E L Torres.

7 THE COURT: How are you, sir?

8 JUROR: I am doing all right.

9 THE COURT: How do you feel today?

10 JUROR: Very good.

11 THE COURT: Is there anything you
12 want to tell me about yourself that you
13 think would affect your ability to be fair
14 and impartial?

15 JUROR: No.

16 THE COURT: Take seat number two.

17 THE CLERK: M I S E A E L

18 T O R R E S.

19 John A. Rotundi.

20 THE COURT: Come up. How are you
21 today?

22 JUROR: I am good.

23 THE COURT: Is there anything you
24 want to tell me about yourself that you
25 think would affect your ability to be fair

Jury Selection

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1 and impartial?

2 JUROR: No.

3 THE COURT: Take seat number three.

4 Thank you.

5 THE CLERK: First name John,
6 J O H N, middle initial A, last name
7 Rotundi, R O T U N D I.

8 Marissa Rodriguez.

9 THE COURT: How are you doing,
10 ma'am?

11 JUROR: Good.

12 THE COURT: How do you feel today?

13 JUROR: Tired.

14 THE COURT: You will get a good
15 night sleep tonight then.

16 Is there anything you want to tell
17 me about yourself that you think may affect
18 your ability to be fair and impartial?

19 JUROR: No.

20 THE COURT: Take seat number four.

21 Thank you, ma'am.

22 THE CLERK: M A R I S A
23 R O D R I G U E Z, seat four.

24 Philomina Alonso.

25 THE COURT: Come up.

Jury Selection

62

1 How are you doing, ma'am?

2 JUROR: Pretty good, thank you.

3 THE COURT: How do you feel today?

4 JUROR: Good.

5 THE COURT: Is there anything you
6 want to tell me about yourself that you
7 think would affect your ability to be fair
8 and impartial?

9 JUROR: No, not at all.

10 THE COURT: Thank you.

11 THE CLERK: F I L O M E N A

12 A L O N S O, seat five.

13 Art J. Miranda.

14 THE COURT: How are you, sir?

15 JUROR: Okay.

16 THE COURT: How do you feel today?

17 JUROR: Good.

18 THE COURT: Is there anything you
19 want to tell me about yourself that you
20 feel would affect your ability to be fair
21 and impartial?

22 JUROR: No.

23 THE CLERK: Art J. Miranda, A R T,

24 J. M I R A N D A. Seat 6.

25 Susan Saterparsa.

Jury Selection

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1 THE COURT: How are you doing,
2 ma'am?

3 JUROR: Okay.

4 THE COURT: How do you feel today?

5 JUROR: Okay.

6 THE COURT: Is there anything you
7 want to tell me about yourself that you
8 think would affect your ability to be fair
9 or impartial?

10 JUROR: No.

11 THE COURT: Take seat number seven.
12 Thank you, ma'am.

13 THE CLERK: S U S A N
14 S A T E R P A R S A.

15 Yago Valentina, Jr.

16 THE COURT: How are you?

17 JUROR: Good.

18 THE COURT: How do you feel today?

19 JUROR: Awkward.

20 THE COURT: Is there anything you
21 want to tell me about yourself that you
22 think would affect your ability --

23 JUROR: My experience for the Staten
24 Island, the first week I was arrested by
25 these cops.

Jury Selection

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1 THE COURT: Is that going to affect
2 your ability to be fair and impartial?

3 JUROR: Especially since the
4 detective lied to me about a statement.

5 THE COURT: I just asked the
6 question. It is a yes or a no question.

7 JUROR: Yes.

8 THE COURT: You wouldn't be able to
9 put that aside and judge this case on what
10 is involved in this case?

11 JUROR: That is the only thing.

12 THE COURT: You can't put that
13 aside?

14 JUROR: (No response.)

15 THE COURT: That is so --

16 JUROR: Yeah, it's right there.

17 THE COURT: So you can't be fair any
18 more?

19 JUROR: I don't think I would be.

20 THE COURT: You are excused. Call
21 somebody else.

22 THE CLERK: Charles De Carlo.

23 THE COURT: How are you, sir?

24 JUROR: Fine.

25 THE COURT: How do you feel today?

Jury Selection

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1 JUROR: Fine.

2 THE COURT: Is there anything you
3 want to tell me about yourself that you
4 think would affect your ability to be fair
5 and impartial?

6 JUROR: Not right now.

7 THE COURT: Take seat number eight.

8 THE CLERK: C H A R L E S

9 D E C A R L O.

10 Lsi K. Ma.

11 THE COURT: How are you doing,
12 ma'am?

13 JUROR: Good.

14 THE COURT: How do you feel today?

15 JUROR: Tired.

16 THE COURT: You are tired too?

17 JUROR: Yes.

18 THE COURT: Don't worry, after today
19 everybody gets a good night's sleep.

20 Is there anything you want to tell
21 me about yourself that you think would
22 affect your ability to be fair and
23 impartial --

24 JUROR: No.

25 THE COURT: Take seat number nine,

Jury Selection

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1 thank you, ma'am.

2 THE CLERK: L S I K. M A.

3 THE COURT: How are you doing, sir?

4 JUROR: How is it going?

5 THE COURT: How do you feel today?

6 JUROR: Tired.

7 THE COURT: Everybody is tired
8 today. Long weekend watching the Giants
9 game, I guess.

10 Is there anything you want to tell
11 me about yourself that you think would
12 affect your ability to be fair and
13 impartial?

14 JUROR: I have to be honest, when
15 you say murder, definitely makes me look at
16 her in a different way, I'd be honest.

17 THE COURT: So you won't be fair?

18 JUROR: I don't think so, no.

19 THE COURT: You don't think you will
20 be, why?

21 JUROR: I don't know. As soon as
22 you say murder --

23 THE COURT: Then all of a sudden you
24 are not going to be fair? You will let
25 somebody else do it?

Jury Selection

67

1 JUROR: I know someone who was
2 murdered. Yes.

3 THE COURT: That is not the
4 question. Does that have anything to do
5 with what we are doing here?

6 JUROR: Do I think I could be fair?
7 No.

8 THE COURT: You don't think you
9 could be fair?

10 JUROR: No.

11 THE COURT: Just because it is a
12 murder case?

13 JUROR: Yes.

14 THE COURT: You are excused.

15 THE CLERK: Hiu L. Loli.

16 THE COURT: How are you, ma'am?

17 JUROR: Good.

18 THE COURT: How do you feel today?

19 JUROR: Good.

20 THE COURT: Is there anything you
21 want to tell me about yourself that you
22 think would affect your ability to be fair
23 and impartial?

24 JUROR: No.

25 (PAUSE.)

Jury Selection

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1 THE COURT: Take seat number ten.

2 THE CLERK: Hiu L. Loli.

3 THE COURT: How are you?

4 THE CLERK: Alex S. Chan, A L E X

5 S. C H A N.

6 JUROR: Good.

7 THE COURT: How do you feel today?

8 JUROR: All right.

9 THE COURT: Is there anything you
10 want to tell me about yourself that you
11 think would affect your ability to be fair
12 and impartial?

13 JUROR: Yes. I had a friend of
14 mine who was in high school was also
15 murdered. I --

16 THE COURT: Does this have anything
17 to do with that?

18 JUROR: Well, it's somewhere,
19 similar situation.

20 THE COURT: But the person is
21 presumed to be innocent. Do you know what
22 job the jurors do? The jurors sit in the
23 box, they watch the witnesses come in.

24 They look at the exhibits and all
25 the evidence and they decide whether or not

Jury Selection

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1 it's true, and then what it means. That's
2 what they do.

3 JUROR: I don't believe I can put
4 that aside.

5 THE COURT: You don't think you'd be
6 able to do that? When people talk to you
7 in your everyday life and you make
8 judgments as to whether or not they are
9 telling the truth or not, are you capable
10 of doing that?

11 JUROR: I don't feel that I will be
12 completely fair in this --

13 THE COURT: You are not capable of
14 doing it?

15 JUROR: No, sir.

16 THE COURT: Of being honest and
17 fair. All right, you can leave.

18 THE CLERK: Debra L. Tursi.

19 THE COURT: How are you doing?

20 JUROR: All right.

21 THE COURT: How do you feel today?

22 JUROR: Tired.

23 THE COURT: Is there anything you
24 want to tell me about yourself that you
25 think would affect your ability to be fair

Jury Selection

70

1 and impartial?

2 JUROR: I got jumped by six black
3 girls sitting in the back of the bus.

4 THE COURT: How long ago was that?

5 JUROR: Five years ago.

6 THE COURT: That is going to cloud
7 your judgment for the rest of your life?
8 You are going to have to work on that. You
9 are excused.

10 THE CLERK: Alexander Rosa.

11 THE COURT: How are you sir?

12 JUROR: Good.

13 THE COURT: How do you feel today?

14 JUROR: Good.

15 THE COURT: Is there anything you
16 want to tell me about yourself that you
17 think would affect your ability to be fair
18 and impartial?

19 JUROR: No.

20 THE COURT: Take seat number eleven.

21 Thank you very much, sir.

22 THE CLERK: A L E X A N D E R

23 R O S A. Seat eleven.

24 Laura C. Pollack.

25 THE COURT: How are you doing,

Jury Selection

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1 ma'am?

2 JUROR: All right.

3 THE COURT: How do you feel today?

4 JUROR: Okay.

5 THE COURT: Is there anything you
6 want to tell me about yourself that you
7 think would affect your ability to be fair
8 and impartial?

9 JUROR: Not really. I take care of
10 four granddaughters, just two weeks might
11 be distracting. They have no one to watch
12 them.

13 THE COURT: You will work for us for
14 two weeks.

15 JUROR: Then what do my daughters
16 do? They work. There are two of them
17 under three. One is two, one is three.

18 THE COURT: There is nobody else
19 just for two weeks?

20 JUROR: No.

21 THE COURT: That you can't work out
22 something with these folks?

23 JUROR: No. They had to scramble
24 just for today. I don't think I could put
25 everything into it.

Jury Selection

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1 THE COURT: You are excused.

2 THE CLERK: Patricia A. Varriano.

3 THE COURT: How are you doing?

4 JUROR: Fine.

5 THE COURT: How do you feel today?

6 JUROR: Fine.

7 THE COURT: Is there anything you
8 want to tell me about yourself that you
9 think would affect your ability to be fair
10 and impartial?

11 JUROR: To be honest with you, only
12 the two week --

13 THE COURT: No, I want you to lie to
14 me.

15 JUROR: Only the two week timeframe
16 because between work and my son, he comes
17 home, does latchkey, so --

18 THE COURT: We usually finish about
19 five o'clock.

20 JUROR: I know, but if I don't talk
21 to him by 2:30, I am like a nervous wreck.

22 THE COURT: You will have an
23 opportunity to talk to him.

24 JUROR: Also, like I said with work,
25 I don't know how far they pay you and --

Jury Selection

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1 THE COURT: Who do you work for?

2 JUROR: Global Aerospace Insurance,
3 New Jersey.

4 THE COURT: I don't know what their
5 policy is with respect to paying you, but
6 like I said, you won't get paid for here.

7 JUROR: Forty dollars isn't going
8 to-- definitely going to cut my salary.

9 THE COURT: Why don't you stick
10 around with us? Find out what the
11 situation is with whether they pay or not.

12 Take seat -- otherwise, you could
13 be fair and impartial?

14 JUROR: Yes.

15 THE COURT: Take seat number twelve.

16 THE CLERK: Name P A T R I C I A,
17 middle initial A, last name V A R R I A NO.

18 Seat 12.

19 Matthew Weiss.

20 THE COURT: How are you doing, Mr.
21 Weiss?

22 JUROR: All right.

23 THE COURT: How do you feel today?

24 JUROR: I feel okay.

25 THE COURT: Is there anything you

Jury Selection

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1 want to tell me about yourself that you
2 think would affect your ability to be fair
3 and impartial?

4 JUROR: Yes, I do. I have a police
5 bias due to a prior arrest.

6 THE COURT: So what happened?

7 JUROR: I was busted for possession,
8 and the officer pulled the switch on me.

9 THE COURT: He --

10 JUROR: He pulled a bait and switch
11 and tried to get a felony.

12 THE COURT: So you are going to hold
13 that against all police officers, all the
14 time?

15 You are not going to be able to
16 judge a police officer witness the same way
17 you would somebody else.

18 Honestly, I don't think so. If I
19 didn't have a family member who was a
20 police officer, I would not have gotten out
21 of that situation, which --

22 THE COURT: The family member you
23 have who is a police officer, you wouldn't
24 think is fair? That is a family member.

25 JUROR: I would have been thrown

Jury Selection

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1 out of the court for that, anyway.

2 THE COURT: For what?

3 JUROR: If I said --

4 THE COURT: Basically you don't want
5 to be here?

6 JUROR: I didn't say that. I told
7 you I don't want to be here because of --

8 THE COURT: That seems like a
9 contrived excuse. I don't think it is that
10 hard to judge someone. I just told
11 everybody what people do as jurors.

12 They make decisions as to whether
13 or not someone is telling the truth. They
14 do it honestly and fairly. You are telling
15 me you can't do that?

16 JUROR: When a police officer risks
17 my life and my future based on --

18 THE COURT: You are excused. Go.
19 Go. Go.

20 If you don't want to be here, just
21 say I don't want to be here. I prefer
22 that. It is more honest, and I will take
23 it into consideration.

24 THE CLERK: Nicholas Surowiec.

25 THE COURT: Is there anything you

Jury Selection

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1 want to tell me about yourself that you
2 think would affect your ability to be fair?

3 JUROR: I work graveyard shift
4 Monday through Saturday. I get out Sunday
5 mornings.

6 THE COURT: Take a seat. Number 13.

7 THE CLERK: N I C H O L A S, last
8 name S U R O W I E C, seat 13.

9 THE CLERK: Anthony R. Cassieri.

10 JUROR: Doing better.

11 THE COURT: Is there anything you
12 want to tell me about yourself that you
13 think would affect --

14 JUROR: Two weeks is a long time
15 for me.

16 THE COURT: What do you do?

17 JUROR: Funeral director.

18 THE COURT: It may be less than two
19 weeks. Take seat number fourteen.

20 THE CLERK: First name A N T H O N Y
21 middle initial R, last name C A S S I E R I
22 seat number fourteen.

23 Cynthia Dow.

24 THE COURT: How are you, ma'am?

25 JUROR: I am okay.

Jury Selection

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1 THE COURT: Is there anything you
2 want to tell me about yourself that you
3 think would --

4 JUROR: I am sorry. I don't
5 understand a little bit.

6 THE COURT: I have to ask the
7 question first. Do you not understand what
8 I am saying? Do you understand English?

9 JUROR: I am --

10 THE COURT: What do you do for a
11 living?

12 JUROR: I am at home.

13 THE COURT: You don't speak English
14 well enough to help us?

15 JUROR: (No response.)

16 THE COURT: You can go, ma'am. You
17 can leave.

18 THE CLERK: Christopher Warren.

19 THE COURT: How are you doing?

20 JUROR: Good. How are you, sir?

21 THE COURT: Is there anything you
22 want to tell me about yourself that you
23 think would affect your ability to be fair
24 or impartial?

25 JUROR: My whole family are police

Jury Selection

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1 officers.

2 THE COURT: So you won't judge
3 police officers fairly?

4 JUROR: I never had a problem with
5 a cop before --

6 THE COURT: That is not the
7 question.

8 JUROR: I am saying, I don't have a
9 negative --

10 THE COURT: Stop. Stop.

11 JUROR: Yes.

12 THE COURT: If a police officer
13 takes the stand, are you going to judge
14 them fairly? Will you be fair to them?

15 JUROR: Would I be fair to them?

16 THE COURT: Yes.

17 JUROR: I can be fair to the police
18 officer, yes. Would I be fair to the young
19 person? I am not sure.

20 THE COURT: So anyone who isn't a
21 police officer you won't be fair to? I
22 don't understand what you are saying. I
23 understand what you told me, just don't
24 understand what you are saying.

25 You have police officers who are

Jury Selection

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1 relatives?

2 JUROR: Yes.

3 THE COURT: So that should
4 disqualify you from being on a jury?

5 JUROR: No. I just don't think
6 that's -- to be totally honest with you, I
7 don't think it would be fair --

8 THE COURT: I asked you a question.

9 JUROR: No.

10 THE COURT: That would disqualify
11 you from being on a jury because --

12 JUROR: Yes, I would use somebody
13 else -- it is not in the way that you are
14 looking at it.

15 THE COURT: Yeah, it is. You want
16 to know why? Because what we expect people
17 to do is to come in here and do their civic
18 duty. By their civic duty I mean come in
19 here and be honest and be fair.

20 JUROR: I am being honest. If I
21 didn't want to be here, I would tell you
22 straight up.

23 THE COURT: But you are telling me
24 you can't be honest and fair because police
25 officers are going to testify?

Jury Selection

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1 JUROR: It has nothing to do with
2 the testifying of the officer. It has to do
3 with the situation of what you explained to
4 me earlier, of what the case is all about.

5 THE COURT: I didn't tell anyone
6 what the case is about.

7 JUROR: Yes, you did. You said it
8 was a murder case.

9 THE COURT: I said what the
10 allegations are. That is the charge. No
11 one knows any of the facts of this case or
12 what it's about.

13 JUROR: I understand that.

14 THE COURT: No one knows what the
15 case is about. You just know that it's one
16 thing. What I am trying to say to you is
17 it's your duty to be a juror.

18 JUROR: Four years ago I was a
19 juror.

20 THE COURT: You don't want to be one
21 now?

22 JUROR: I am not --

23 THE COURT: You were fair to be one
24 then, but you are not fair any more?

25 JUROR: In the same situation, I

Jury Selection

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1 wouldn't be on the same case I was because
2 now I have --

3 THE COURT: You are excused.

4 Tell me you don't want to be here.

5 It is a lot easier.

6 THE CLERK: Mary Ward.

7 THE COURT: Hi Mary, How are you?

8 JUROR: Okay.

9 THE COURT: How are you feeling
10 today?

11 JUROR: Good.

12 THE COURT: Is there anything you
13 want to tell me about yourself that you
14 think would affect your ability to be fair
15 and impartial?

16 JUROR: No.

17 THE COURT: Good for you, Mary.

18 Take seat number fifteen.

19 THE CLERK: First name M A R Y, last
20 name W A R D. Seat fifteen.

21 Kenneth P. Morris Jr.

22 THE COURT: How are you, sir?

23 JUROR: All right.

24 THE COURT: How do you feel today?

25 JUROR: Fine.

Jury Selection

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1 THE COURT: Is there anything you
2 want to tell me about yourself that you
3 think would affect your ability to be fair
4 and impartial?

5 JUROR: No.

6 THE CLERK: First name K E N N E T H
7 P. M O R R I S J R.

8 Rose S. Kelly. No answer.

9 Michael O. Wood.

10 THE COURT: How are you, Mr. Wood?

11 JUROR: Doing fine.

12 THE COURT: How do you feel today?

13 JUROR: Feeling good.

14 THE COURT: Is there anything you
15 want to tell me about yourself that you
16 think would affect your ability to be fair
17 and impartial?

18 JUROR: No.

19 THE COURT: Take seat number
20 seventeen. Front row. Thank you, Mr.
21 Wood.

22 THE CLERK: First name M I C H A E L
23 middle initial O, last name Wood, W O O D.

24 Donald Buttermark.

25 THE COURT: How are you, sir?

Jury Selection

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1 JUROR: Good.

2 THE COURT: How do you feel today?

3 JUROR: Great.

4 THE COURT: Is there anything you
5 want to tell me about yourself that you
6 think would affect your ability to be fair
7 and impartial?

8 JUROR: No.

9 THE COURT: Take seat number
10 eighteen. Thank you.

11 THE CLERK: First name D O N A L D
12 last name B U T T E R M A R K. Seat
13 eighteen.

14 John M. Urrico.

15 THE COURT: How are you, sir?

16 JUROR: All right.

17 THE COURT: How do you feel today?

18 JUROR: Good.

19 THE COURT: Is there anything you
20 want to tell me about yourself that you
21 think would affect your ability to be fair
22 and impartial?

23 JUROR: No.

24 THE COURT: Take seat number
25 nineteen. Thank you very much.

Jury Selection

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1 THE CLERK: First name J O H N M.
2 U R R I C O.

3 Susan M. Walsh.

4 THE COURT: How are you, Miss Walsh?

5 JUROR: Good.

6 THE COURT: How do you feel today?

7 JUROR: Good.

8 THE COURT: Is there anything you
9 want to tell me about yourself that you
10 think would affect your ability to be fair
11 and impartial?

12 JUROR: No.

13 THE COURT: Take seat number twenty.
14 Thank you very much.

15 THE CLERK: S U S A N, middle
16 initial M, last name W A L S H.

17 Of those of you who have sat down,
18 before I say anything else, I want to thank
19 you because you didn't try to get out of
20 jury service. You said that you would be
21 fair and you want to work with us, and for
22 that you should be very proud of
23 yourselves.

24 It is very important that folks
25 like you are willing to give up a small

Jury Selection

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1 portion of your time when called upon to
2 serve your community in a vital and
3 important way.

4 It is important that we have people
5 like you in the community. Like I said,
6 you should be proud of yourselves for that.

7 Now, there were a few of you who
8 had issues. Who are they?

9 What was your issue, ma'am?

10 JUROR: With reference to my job
11 and my son.

12 THE COURT: Tell me it again.

13 JUROR: With reference to my job, I
14 don't know how long they are paying me. I
15 am the sole support of my son.

16 THE COURT: You said you were going
17 to find out for us.

18 JUROR: My son comes home latchkey.

19 THE COURT: We are going to find out
20 about the work because that happens all the
21 time anyway, whether you are here or not.
22 That doesn't change whether you are here or
23 not, your son is coming home.

24 JUROR: No. Usually I am home
25 about a quarter after four.

Jury Selection

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1 THE COURT: But that doesn't change
2 whether you work with us or not, so why
3 don't we do this, can we put her card aside
4 and you will come back tomorrow and tell us
5 whether or not that would affect your
6 ability to work with us,

7 THE CLERK: What number is that,
8 your Honor?

9 THE COURT: Twelve.

10 We will put somebody else in that
11 seat for now. Miss Varriano. Any
12 objection, counsel?

13 MR. RENFROE: No objection.

14 MR. MATTEI: No objection.

15 THE COURT: Take your seat in the
16 audience again. You will come back today
17 and tell us about that tomorrow.

18 THE CLERK: Berta G. Gonzalez.

19 THE COURT: How are you, Miss
20 Gonzalez?

21 JUROR: All right.

22 THE COURT: How do you feel today?

23 JUROR: All right.

24 THE COURT: Is there anything you
25 want to tell me about yourself that you

Jury Selection

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1 think would affect your ability to be fair
2 and impartial?

3 JUROR: No.

4 THE COURT: Take seat number twelve.
5 Thank you very much, Miss Gonzalez.

6 THE COURT: What was your problem?

7 JUROR: I work graveyard shift. I
8 am coming off in the morning. I don't want
9 to be rude and fall asleep in your
10 courtroom.

11 THE COURT: What time do you go in?

12 JUROR: I go in eleven o'clock
13 tonight. Eleven to seven in the morning.

14 THE COURT: We usually finish around
15 four and five.

16 JUROR: By the time I get out of
17 the hall, it is nine o'clock. Takes about
18 45 minutes --

19 THE COURT: Who do you work for?

20 JUROR: I work for Long Island
21 Railroad.

22 THE COURT: Then tell them to give
23 you time to be on a jury. You will tell
24 them --

25 JUROR: If I don't show up, I don't

Jury Selection

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1 get paid.

2 THE COURT: Tell them you are on
3 jury duty, all right?

4 JUROR: Yes. I will be subject to
5 call --

6 THE COURT: That is okay. You are
7 staying with us. Ma'am, you are staying
8 with us. You are staying with us too. You
9 are staying with us too.

10 All right. Those are not good
11 excuses. Everybody works. That's not a
12 good excuse to not work with us.

13 All right. I have a couple of
14 questions for everybody as a whole.

15 Have any of you read or heard about
16 any press accounts of this case?

17 If you have, raise your hand.
18 Anybody?

19 Does anybody in this group have
20 anyone who is close to them, either a
21 family member or friend, who've
22 experienced, who's had experiences with
23 mental illness?

24 Say your name.

25 JUROR: Marissa Rodriguez.

Jury Selection

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1 THE COURT: Say the nature of the
2 problem.

3 JUROR: My sister has mental
4 illness.

5 THE COURT: What is the situation?

6 JUROR: She recently was
7 transferred to a group home.

8 THE COURT: To a group home because
9 of her mental illness?

10 JUROR: Yes.

11 THE COURT: Thank you. Who is next?

12 JUROR: My wife takes care of her
13 mother. She has mental illness.

14 THE COURT: What is the matter with
15 her?

16 JUROR: She tried to commit
17 suicide.

18 THE COURT: Is she currently home --

19 JUROR: She is home. My wife goes
20 back and forth to monitor medication.

21 THE COURT: Make sure she takes her
22 medication?

23 JUROR: A whole bunch.

24 THE COURT: Who else? Say your
25 name.

Jury Selection

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1 JUROR: Eliza Sack. My mother's
2 cousin.

3 THE COURT: What is the matter with
4 your mother's cousin?

5 JUROR: Schizophrenia.

6 THE COURT: She takes medication for
7 that?

8 JUROR: Yes, she does.

9 THE COURT: Who else? Go ahead, say
10 your name.

11 JUROR: John Rotundi. My sister
12 has mental illness.

13 THE COURT: What is the matter with
14 her?

15 JUROR: I know for a fact that she
16 has OCD. I know OCD is not considered a
17 mental illness. I don't know what exactly
18 she has. I know that she was recently
19 institutionalized for something.

20 I am going to be honest with you.
21 I don't know what it is.

22 THE COURT: Anyone else? Say your
23 name.

24 JUROR: Alexander Rosa. My
25 sister-in-law is clinically depressed and

Jury Selection

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1 committed suicide in May.

2 THE COURT: She committed suicide?

3 JUROR: In my house, yes.

4 THE COURT: Was she being treated
5 for mental illness before that?

6 JUROR: Only for one month.

7 THE COURT: And then she committed
8 suicide. I am sorry to hear that, but
9 thank you for telling us.

10 Ma'am?

11 JUROR: Yes, my name is Mary Ward.
12 My daughter is clinically depressed and she
13 also takes medication.

14 THE COURT: Anybody else? Thank you
15 very much.

16 Has anyone ever been on a jury
17 before?

18 Say your name.

19 JUROR: Ken Morris.

20 THE COURT: What kind of case?

21 JUROR: I was on a grand jury.

22 THE COURT: All right. This is very
23 different than a grand jury.

24 If you are selected as a juror in
25 this case, you are going to have to accept

Jury Selection

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1 the law as I give it to you, whether you
2 agree with it or not. It is different than
3 grand jury.

4 Are you going to be able to do
5 that?

6 JUROR: Yes.

7 THE COURT: Name?

8 JUROR: Philomina Alonso.

9 THE COURT: Are you going to be able
10 to accept the law --

11 JUROR: No problem.

12 THE COURT: Anybody else been on a
13 jury before?

14 Go ahead, say your name.

15 JUROR: Alexander Rosa.

16 THE COURT: How long ago?

17 JUROR: Fifteen years ago.

18 THE COURT: What kind of case was
19 it?

20 JUROR: Criminal, wiretap.

21 THE COURT: Did they reach a
22 verdict? Don't tell me what it was. Did
23 they reach a verdict in that case?

24 JUROR: Yes.

25 THE COURT: Who is next?

Jury Selection

93

1 JUROR: Donald Buttermark.

2 Malpractice.

3 THE COURT: Civil case?

4 JUROR: Malpractice.

5 THE COURT: Civil case, how long ago
6 was that?

7 JUROR: Six years ago, seven years
8 ago.

9 THE COURT: Did they reach a
10 verdict?

11 JUROR: Yes.

12 THE COURT: Thank you. You can sit
13 down.

14 You don't have to get up when you
15 talk to me. That's all right.

16 JUROR: Michael Wood. I worked two
17 years ago, Federal Jury, two years ago.

18 THE COURT: Were you selected for
19 the jury?

20 JUROR: Yes.

21 THE COURT: Was it a criminal case?

22 JUROR : Yes.

23 THE COURT: Did they reach a verdict
24 in that case?

25 JUROR: Yes.

Jury Selection

94

1 THE COURT: Thank you. Anybody else
2 we didn't talk about?

3 Has anybody in this group, any of
4 your friends, close friends or family
5 members who have had legal training, been
6 employed in a lawyer's office, judges,
7 lawyers, paralegals, people like that?

8 Anybody? Raise your hand if that's
9 the case. We'll start with you, ma'am.

10 JUROR: Mary Ward.

11 THE COURT: That's the next
12 question, that is not this question.

13 It says do you know any lawyers,
14 judges, paralegals, people like that?
15 Anybody.

16 JUROR: Who we know?

17 THE COURT: Close friend or family
18 member.

19 Go ahead, state your name.

20 JUROR: Charles De Carlo. Not that
21 it is as relationship. My next door
22 neighbor is a court officer.

23 THE COURT: That is the next
24 question. We are not there yet.

25 Lawyers, judges or paralegals.

Jury Selection

95

1 What is your name?

2 JUROR: Hiu Loli. I work in a law
3 firm before so I still keep in touch with
4 my boss and co workers, and --

5 THE COURT: If you are selected as a
6 juror in this case, you can't talk to your
7 old boss about the case until after the
8 case is over, okay?

9 JUROR: Yes.

10 THE COURT: Are you going to be able
11 to do that? You can't talk to him about
12 the case, all right?

13 JUROR: Okay.

14 THE COURT: Say your name.

15 JUROR: Mary Gonzalez. My husband
16 is a lawyer.

17 THE COURT: What kind of law?

18 JUROR: Corporate and taxation.

19 THE COURT: Even though they don't
20 practice criminal law, you cannot discuss
21 the case with him during the course of the
22 trial.

23 Are you going to be able to do
24 that? You can tell him you are on jury
25 duty. You can't talk about the facts of

Jury Selection

96

1 the case. That is an order, that is not
2 negotiable.

3 JUROR: Yes.

4 THE COURT: Also, you are going to
5 have to take an oath to accept the law as I
6 give it to you, whether you agree with it
7 or not.

8 Are you going to be able to do
9 that?

10 Anybody else?

11 JUROR: Susan Walsh. My boss is a
12 lawyer, but out in California.

13 THE COURT: They don't even know the
14 law in California, so it doesn't count.

15 JUROR: He is able to practice in
16 New York also. He is real estate.

17 THE COURT: He is a real lawyer
18 then.

19 If you are selected as a juror in
20 this case, you are going to have to take an
21 oath to accept the law as I give it to you,
22 whether you agree with it or not.

23 Are you going to be able to do
24 that?

25 JUROR: Yes.

Jury Selection

97

1 THE COURT: Anybody else?

2 JUROR: John Urrico. Just a friend
3 of mine and my wife's.

4 THE COURT: If you are selected as a
5 juror in this case, you are going to take
6 an oath to accept the law as I give it to
7 you, whether you agree with it or not.

8 Can you do that?

9 JUROR: Yes.

10 THE COURT: You can't talk to folks
11 about that case until it is over.

12 Does anybody have a family member
13 or close friend employed in law enforcement
14 who is police, Court, law enforcement?

15 JUROR: Philomina Alonso. My nephew.

16 THE COURT: What is the name?

17 JUROR: I know the names. That is
18 why I have to ask you. He is retired in
19 Florida.

20 THE COURT: Who is that?

21 JUROR: My nephew.

22 THE COURT: If you are selected as a
23 juror in this case, are you going to be
24 able to judge police officer testimony the
25 same way you would any other witness?

Jury Selection

98

1 In other words, are you going to be
2 able to judge them fairly, that's the
3 question.

4 JUROR: Yes.

5 THE COURT: You are going to be able
6 to do that?

7 JUROR: Yes.

8 THE COURT: Thank you very much.

9 Who is next?

10 You have a correction officer?

11 JUROR: Yes, my next door neighbor.

12 THE COURT: Court officer?

13 JUROR: Yes.

14 THE COURT: Are you going to be able
15 to judge police officer testimony fairly?

16 JUROR: I guess.

17 THE COURT: I need a yes or a no.

18 JUROR: Yes.

19 THE COURT: Anybody else? Go ahead,
20 number one.

21 JUROR: Distant relative.

22 THE COURT: You have distant --

23 JUROR: Yes.

24 THE COURT: Who is a police officer?

25 JUROR: Yes.

Jury Selection

99

1 THE COURT: Are you going to be able
2 to judge police officers fairly?

3 JUROR: Sure.

4 THE COURT: Ma'am, say your name.

5 JUROR: My name is Mary Ward. I
6 have a friend in church. He is a
7 correction officer.

8 THE COURT: Are you going to be able
9 to judge police officers fairly?

10 Are you going to be fair to police,
11 yes or no?

12 JUROR: Yes.

13 THE COURT: Any body else? Who is
14 next?

15 JUROR: Anthony Cassieri, nephew is
16 a police officer.

17 THE COURT: Are you going to be able
18 to judge police officers fairly?

19 JUROR: Yes.

20 THE COURT: Next.

21 JUROR: Mary Ward.

22 JUROR: My son --

23 THE COURT: Are you going to be able
24 to judge police officers fairly?

25 JUROR: Yes.

Jury Selection

100

1 THE COURT: Who is next? Who else?

2 JUROR: John Urrico. I have a lot
3 of cops as friends.

4 THE COURT: Are you going to be able
5 to judge police officers the same way you
6 would any other witness?

7 JUROR: Yes.

8 THE COURT: In other words, fairly
9 and impartially.

10 JUROR: Yes.

11 THE COURT: Next.

12 JUROR: Donald Buttermark.

13 Two nephews, lot of friends.

14 THE COURT: Are you going to be able
15 to judge police officers the same way you
16 would any other witness, fairly and
17 impartially?

18 JUROR: Yes.

19 THE COURT: All right.

20 JUROR: Mr. Morris, police officer.

21 THE COURT: Are you going to be able
22 to judge police officers fairly?

23 JUROR: Yes.

24 THE COURT: Go ahead.

25 JUROR: Ken Morris. I have a first

Jury Selection

101

1 cousin and quite a few friends.

2 THE COURT: Are you going to be able
3 to judge police officers fairly and
4 impartially?

5 JUROR: My neighbors, both are good
6 friends.

7 THE COURT: Are you going to be able
8 to judge police officers fairly and
9 impartially?

10 JUROR: Yes.

11 THE COURT: Anybody I missed?

12 JUROR: Mark Wood. Friends both
13 corrections and police.

14 THE COURT: Are you going to be able
15 to judge police officers fairly and
16 impartially?

17 JUROR: Yes.

18 THE COURT: Everybody knows police
19 officers in Staten Island. It is not about
20 knowing police officers, it is about
21 whether or not you can step back and judge
22 them in the same way you would any other
23 witness.

24 Police officers tell the truth,
25 they sometimes don't. They sometimes make

Jury Selection

102

1 mistakes, just like everybody else.

2 So, when they come in and testify,
3 can you judge them just like anybody else?

4 You folks all said that you could
5 do so. I really appreciate that. That is
6 important.

7 Has anybody here had a family
8 member or close friend who's been the
9 victim of a crime?

10 Go ahead. Say your name.

11 JUROR: Miseael Torres.

12 My wife was assaulted with a gun.

13 THE COURT: Assaulted with a gun?

14 JUROR: Yes.

15 THE COURT: You would be able to put
16 that aside and judge this case on the facts
17 in this case?

18 JUROR: Yes.

19 THE COURT: Who is next? Ma'am?

20 Somebody in the first row? Go
21 ahead.

22 JUROR: Juror number nine. My wife
23 was attacked when she was a young girl.

24 THE COURT: Was she your wife then?

25 JUROR: No. She is my wife now.

Jury Selection

103

1 THE COURT: Did you know her when
2 she was attacked?

3 JUROR: No, a couple of years
4 later.

5 THE COURT: Is there anything about
6 that situation that would be such that you
7 wouldn't be able to be fair in this case?

8 JUROR: Yes.

9 THE COURT: You didn't even know her
10 then. How is it going to affect you?

11 JUROR: Because it still affects
12 her now.

13 THE COURT: But it is you we are
14 talking about.

15 JUROR: I know but I have to live
16 with her.

17 THE COURT: Are you serious that
18 it's going to affect you, something that
19 happened to your wife before you even know
20 her is going to affect whether you are
21 going to be fair in this case?

22 JUROR: If I answer your question,
23 no. But if you know what I have done, what
24 I have done in the past, where I work, then
25 you would understand.

Jury Selection

104

1 THE COURT: That is --

2 JUROR: Right now to answer your
3 question, no.

4 THE COURT: That's what we want to
5 know, whether you can be fair. We want
6 people who can be fair. That is what we
7 are looking for. Thank you very much.

8 Who is next?

9 JUROR: My name is John Rotundi.
10 My father had been robbed, I believe, three
11 times.

12 THE COURT: Nobody says that these
13 aren't things that can affect people. They
14 are certainly things that can affect
15 people.

16 I want to know if you can put that
17 aside and judge this case based on the
18 evidence in this case?

19 JUROR: Yes.

20 THE COURT: Are you going to be able
21 to do that?

22 JUROR: Yes.

23 THE COURT: Anybody else? Who is
24 next.

25 JUROR: Donald Buttermark.

Jury Selection

105

1 There is a case pending right now,
2 a very good friend of mine was the victim
3 and his wife was a friend of mine --

4 THE COURT: Are you going to be able
5 to put that aside and judge this case --

6 JUROR: Yes.

7 THE COURT: Who is next?

8 JUROR: Ken Morris. My nephew was
9 assaulted just a few months ago, last
10 September, beginning of school.

11 THE COURT: Is he okay?

12 JUROR: No.

13 THE COURT: What is the matter with
14 him?

15 THE COURT: He is mentally screwed
16 up from it, you know, but he is doing
17 better.

18 THE COURT: Are you going to be able
19 to put that aside --

20 JUROR: Yes, I can. Yes.

21 THE COURT: Thank you very much.
22 Good job.

23 Next? Anybody else? All right.

24 Anybody, close friend or family
25 member been arrested or had a fight with

Jury Selection

106

1 the police?

2 Raise your hand. Been arrested?

3 JUROR: My father. Charles De

4 Carlo. My father.

5 THE COURT: What happened with your
6 father?

7 JUROR: He was mistakenly
8 identified in an altercation with an off
9 duty officer. He was arrested.

10 THE COURT: Are you going to be able
11 to put that aside and be fair and honest in
12 this case?

13 JUROR: I am going to try.

14 THE COURT: Yes or no?

15 JUROR: Yes.

16 THE COURT: Anybody else? Arrested?
17 All right. Anybody ever testify in a
18 legal matter? Anybody's friend or relative
19 testify in a deposition, in a court case as
20 a witness? Go ahead.

21 JUROR: Susan Walsh. I testified in
22 front of a grand jury for fraud, about five
23 or six years ago.

24 THE COURT: Anybody else? What is
25 your name?

Jury Selection

107

1 JUROR: Elias Akeredolua.

2 THE COURT: Where were you born?

3 JUROR: Brooklyn, New York.

4 THE COURT: What neighborhood do you
5 live?

6 JUROR: West Brighton.

7 THE COURT: How long?

8 JUROR: Five years.

9 THE COURT: Apartment or private
10 house?

11 JUROR: Private house.

12 THE COURT: What do you do for a
13 living?

14 JUROR: I work with the City of New
15 York.

16 THE COURT: Single, married,
17 divorced?

18 JUROR: Married.

19 THE COURT: What does your wife do?

20 JUROR: She works as an accountant.

21 THE COURT: Good job. Thank you
22 very much. I appreciate it.

23 What is your name?

24 JUROR: Miseael Torres, born in
25 Mexico.

Jury Selection

108

1 THE COURT: What neighborhood do you
2 live in?

3 JUROR: Staten Island.

4 THE COURT: What neighborhood?

5 JUROR: Graniteville.

6 THE COURT: For how long?

7 JUROR: Fifteen years.

8 THE COURT: Apartment or private
9 house?

10 JUROR: Private house.

11 THE COURT: What do you do for a
12 living?

13 JUROR: I have my own business.

14 THE COURT: Single, married,
15 divorced?

16 JUROR: Married.

17 THE COURT: What does your wife do?

18 JUROR: She works with me.

19 THE COURT: In the business with
20 you?

21 JUROR: Yes.

22 THE COURT: What kind of business?

23 JUROR: Bakery.

24 THE COURT: Good job. Thank you
25 very much, well done.

Jury Selection

109

1 What is your name?

2 JUROR: John Rotundi.

3 THE COURT: Where were you born?

4 JUROR: Brooklyn, New York.

5 THE COURT: What neighborhood do you
6 live?

7 JUROR: I live in Great Kills,
8 Staten Island.

9 THE COURT: Apartment, private
10 house?

11 JUROR: I live in a room in a
12 private house.

13 THE COURT: For how long?

14 JUROR: Almost ten years now.

15 THE COURT: What do you do for a
16 living?

17 JUROR: I teach.

18 THE COURT: What do you teach?

19 JUROR: I teach childhood
20 education.

21 THE COURT: Single, married,
22 divorced?

23 JUROR: Single.

24 THE COURT: Good job. Thank you
25 very much. Well done.

Jury Selection

110

1 What is your name?

2 JUROR: Marissa Rodriguez.

3 THE COURT: Where were you born?

4 JUROR: Mount Sinai Hospital,
5 Manhattan.

6 THE COURT: What neighborhood do you
7 live now?

8 JUROR: Brighton Avenue.

9 THE COURT: For how long?

10 JUROR: 2008.

11 THE COURT: Apartment or private
12 house?

13 JUROR: Apartment.

14 THE COURT: What do you do for a
15 living?

16 JUROR: Student teacher.

17 THE COURT: Single, married,
18 divorced?

19 JUROR: Single.

20 THE COURT: Good job. Thank you
21 very much.

22 What is your name, ma'am?

23 JUROR: Philomina Alonso.

24 THE COURT: Where were you born?

25 JUROR: Puerto Rico.

Jury Selection

111

1 THE COURT: What neighborhood do you
2 live?

3 JUROR: Forest Avenue, Simonson.

4 THE COURT: How long?

5 JUROR: Eleven years.

6 THE COURT: Apartment, private
7 house?

8 JUROR: Private house.

9 THE COURT: What do you do for a
10 living?

11 JUROR: Medical clerk and dental
12 clerk.

13 THE COURT: Single, married,
14 divorced?

15 JUROR: Married.

16 THE COURT: What does your husband
17 do?

18 JUROR: Retired.

19 THE COURT: What did he do prior to
20 that?

21 JUROR: He had an injury back --

22 THE COURT: What job?

23 JUROR: He was a tractor trailer
24 driver.

25 THE COURT: Good job. Thank you

Jury Selection

112

1 very much. Well done.

2 What is your name?

3 JUROR: Art Miranda.

4 THE COURT: Where were you born?

5 JUROR: New York City.

6 THE COURT: What neighborhood do you
7 live?

8 JUROR: Grant City.

9 THE COURT: For how long?

10 JUROR: Five years.

11 THE COURT: Apartment, private
12 house?

13 JUROR: Apartment.

14 THE COURT: What do you do for a
15 living?

16 JUROR: Advertising business, sole
17 proprietor.

18 THE COURT: Single, married,
19 divorced?

20 JUROR: Single.

21 THE COURT: Good job. Thank you
22 very much. Well done.

23 What is your name?

24 JUROR: Susan Saterparsa, born in
25 Lebanon.

Jury Selection

113

1 THE COURT: What neighborhood do you
2 live in how?

3 JUROR: Huguenot for twenty years.
4 I am married, I am a pharmacist. My
5 husband is an investment banker.

6 THE COURT: Good job, thank you very
7 much. Go ahead. What is your name?

8 JUROR: Charles DeCarlo.

9 THE COURT: Where were you born?

10 JUROR: Brooklyn.

11 THE COURT: Where do you live now?

12 JUROR: Southeast Annadale.

13 THE COURT: For how long?

14 JUROR: Working on twelve years.

15 THE COURT: Apartment, private
16 house?

17 JUROR: Private house.

18 THE COURT: What do you do for a
19 living?

20 JUROR: Elevator mechanic.

21 THE COURT: Single, married,
22 divorced?

23 JUROR: Married, two kids.

24 THE COURT: What does your wife do?

25 JUROR: She is a homemaker.

Jury Selection

114

1 THE COURT: Good job. Thank you
2 very much.

3 Ma'am, what is your name?

4 JUROR: Lsi Ma.

5 THE COURT: Where were you born?

6 JUROR: China.

7 THE COURT: Where do you live now?

8 JUROR: Huguenot, Staten Island.

9 THE COURT: How long?

10 JUROR: 21 years.

11 THE COURT: Private house,
12 apartment?

13 JUROR: Private house.

14 THE COURT: What do you do for a
15 living?

16 JUROR: Postal worker.

17 THE COURT: Single, married,
18 divorced?

19 JUROR: Married.

20 THE COURT: What does your husband
21 do?

22 JUROR: He is on disability.

23 THE COURT: What did he do before
24 that?

25 JUROR: Insurance agentl.

Jury Selection

115

1 THE COURT: Good job. Thank you
2 very much. Well done.

3 THE COURT: What is your name?

4 JUROR: Hiu Loli.

5 THE COURT: Where were you born?

6 JUROR: Hong Kong.

7 THE COURT: What neighborhood do you
8 live?

9 JUROR: Rossville.

10 THE COURT: For how long?

11 JUROR: Four years.

12 THE COURT: Apartment, private
13 house?

14 JUROR: Private house.

15 THE COURT: What do you do for a
16 living?

17 JUROR: Accountant.

18 THE COURT: Single, married,
19 divorced?

20 JUROR: Married.

21 THE COURT: What does your husband
22 do?

23 JUROR: He is a federal employee.

24 THE COURT: For who?

25 JUROR: FEMA.

Jury Selection

116

1 THE COURT: Good job. Thank you
2 very much. Well done.

3 What is your name?

4 JUROR: Alex Rosa.

5 THE COURT: Where were you born?

6 JUROR: Brooklyn, New York.

7 THE COURT: What neighborhood do you
8 live in now?

9 JUROR: Great Kills.

10 THE COURT: How long?

11 JUROR: Five years.

12 THE COURT: Apartment or private
13 house?

14 JUROR: Private house.

15 THE COURT: What do you do for a
16 living?

17 JUROR: Solutions architect.

18 THE COURT: Single, married,
19 divorced?

20 JUROR: Married.

21 THE COURT: What does your wife do?

22 JUROR: Facilities director.

23 THE COURT: Good job. Thank you
24 very much, well done.

25 What is your name?

Jury Selection

117

1 JUROR: Mary Gonzalez.

2 THE COURT: Where were you born?

3 JUROR: Philippines.

4 THE COURT: What neighborhood do you
5 live now?

6 JUROR: Manor Heights.

7 THE COURT: For how long?

8 JUROR: Six years.

9 THE COURT: Apartment, private
10 house?

11 JUROR: Private house.

12 THE COURT: What do you do for a
13 living?

14 JUROR: Medical doctor and a
15 research scientist.

16 THE COURT: Single, married.

17 JUROR: Married.

18 THE COURT: What does your husband
19 do?

20 JUROR: He is a lawyer.

21 THE COURT: What kind of law does he
22 practice?

23 We talked about that. Thank you
24 very much. Well done.

25 What is your name?

Jury Selection

118

1 JUROR: He is a lawyer.

2 THE COURT: What kind of law does he
3 practice? We talked about already. Thank
4 you very much. Well done.

5 What is your name?

6 JUROR: Nicholas Surowiec.

7 THE COURT: Where were you born?

8 JUROR: Staten Island. Oakwood.

9 THE COURT: How long?

10 JUROR: 24 years.

11 THE COURT: Apartment, private
12 house?

13 JUROR: Private house.

14 THE COURT: What do you for a
15 living?

16 JUROR: Construction. Graveyard
17 shift.

18 THE COURT: Well done. Single,
19 married, divorced?

20 JUROR: Single.

21 THE COURT: Good job. Thank you
22 very much. I appreciate it.

23 What is your name?

24 JUROR: Anthony D.

25 THE COURT: Where were you born?

Jury Selection

119

1 JUROR: Brooklyn.

2 THE COURT: Where do you live now?

3 JUROR: New Springville.

4 THE COURT: For how long?

5 JUROR: 37 years.

6 THE COURT: Apartment, private

7 house?

8 JUROR: Private house.

9 THE COURT: What do you do for a
10 living?

11 JUROR: Construction.

12 THE COURT: Single, married,
13 divorced?

14 JUROR: Married, wife is a
15 homemaker.

16 THE COURT: Good job, thank you very
17 much. I appreciate it.

18 JUROR: Mary Ward, born in Staten
19 Island.

20 THE COURT: What neighborhood do you
21 live in?

22 JUROR: Pleasant Plains.

23 THE COURT: For how long?

24 JUROR: 25 years.

25 THE COURT: Apartment, private

Jury Selection

120

1 house?

2 JUROR: Private house.

3 THE COURT: What do you do for a
4 living?

5 JUROR: Board of Ed in the
6 cafeteria.

7 THE COURT: Single, married,
8 divorced?

9 JUROR: Married.

10 THE COURT: What does your husband
11 do?

12 JUROR: Fed ex.

13 THE COURT: Good job, thank you very
14 much. Well done.

15 What is your name?

16 JUROR: Ken Morris.

17 THE COURT: Where were you born?

18 JUROR: Staten Island.

19 THE COURT: What neighborhood do you
20 live in?

21 JUROR: Travis.

22 THE COURT: Apartment or private
23 house?

24 JUROR: Private house.

25 THE COURT: How long have you lived

Jury Selection

121

1 in Travis?

2 JUROR: Just five, seven years.

3 THE COURT: What do you do for a
4 living?

5 JUROR: I work for the New York
6 City Transit Authority.

7 THE COURT: What does your wife do?

8 JUROR: Secretary.

9 THE COURT: Thank you very much. I
10 appreciate it. What is your name?

11 JUROR: Mike Wood.

12 THE COURT: Where were you born?

13 JUROR: Jamaica.

14 THE COURT: What neighborhood do you
15 live in?

16 JUROR: Rossville.

17 THE COURT: How long?

18 JUROR: 17 years.

19 THE COURT: Apartment or private
20 house?

21 JUROR: Apartment.

22 THE COURT: What do you do for a
23 living?

24 JUROR: New York City Transit.

25 THE COURT: Single, married,

Jury Selection

122

1 divorced?

2 JUROR: Married.

3 THE COURT: What does your wife do?

4 JUROR: City Bank Administrator.

5 THE COURT: Thank you.

6 What is your name?

7 JUROR: Donald Buttermark, retired,
8 New York City Transit Authority.

9 THE COURT: What neighborhood do you
10 live?

11 JUROR: Huguenot.

12 THE COURT: Where were you born?

13 JUROR: Staten Island.

14 THE COURT: What neighborhood do you
15 live in now?

16 JUROR: Huguenot.

17 THE COURT: Apartment or private
18 house?

19 JUROR: Private house.

20 THE COURT: Where do you work?

21 JUROR: Transit Authority.

22 THE COURT: Single, married,
23 divorced?

24 JUROR: Married.

25 THE COURT: What does your wife do?

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1 JUROR: Homemaker, cook.

2 THE COURT: Good job. Thank you
3 very much. I appreciate it.

4 What is your name?

5 JUROR: John Urrico.

6 THE COURT: Where were you born?

7 JUROR: Brooklyn.

8 THE COURT: What neighborhood do you
9 live?

10 JUROR: Great Kills.

11 THE COURT: For how long?

12 JUROR: Year and a half.

13 THE COURT: Apartment or private
14 house?

15 JUROR: Private house.

16 THE COURT: What do you do for a
17 living?

18 JUROR: Fireman.

19 THE COURT: I assume so. You are
20 wearing a fireman jacket.

21 Single, married, divorced?

22 JUROR: Married.

23 THE COURT: What does your wife do?

24 JUROR: Financial manager.

25 THE COURT: Good job. Thank you. I

Jury Selection

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1 appreciate it.

2 Ma'am, what is your name?

3 JUROR: Susan Walsh.

4 THE COURT: Where were you born?

5 JUROR: Staten Island.

6 THE COURT: What neighborhood do you
7 live?

8 JUROR: Princes Bay.

9 THE COURT: For how long?

10 JUROR: My entire life, 25 years.

11 THE COURT: Apartment or private
12 house?

13 JUROR: Private house.

14 THE COURT: What do you do for a
15 living?

16 JUROR: I run an internet company.

17 THE COURT: What kind of company?

18 JUROR: Furniture.

19 THE COURT: You sell furniture on
20 the internet?

21 JUROR: Yes.

22 THE COURT: What kind of furniture?

23 JUROR: Very European furniture.

24 THE COURT: Single, married,
25 divorced?

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1 JUROR: Single.

2 THE COURT: Good job. Thank you
3 very much, Miss Walsh. I appreciate it.

4 MR. RENFROE: May we step up
5 briefly?

6 THE COURT: Sure.

7 (A side bar discussion was held off
8 the record.)

9 THE COURT: First we are going to
10 hear from Mr. Mattei. He is going to talk
11 to you for fifteen minutes.

12 MR. MATTEI: May I inquire, your
13 Honor?

14 THE COURT: Yes.

15 MR. MATTEI: Good afternoon, ladies
16 and gentlemen. Thank you for being part of
17 this. Just by a show of hands, how many
18 people watch some of the legal shows that
19 are on TV? Boston Legal, CSI, Perry Mason?

20 In those shows, you very rarely if
21 ever see the voir dire. I would imagine it
22 doesn't really make for thrilling TV.

23 You can see direct examination,
24 cross examination. Everybody has an idea
25 what that's all about.

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1 Now, for you who are here who have
2 not been on a jury before, now you know
3 what a voir dire is like. But the
4 important thing is for my purposes, this is
5 the only time that you will get to talk
6 back to me, back to Mr. Renfroe, about your
7 feelings about this particular case.

8 Nobody is going to judge you on
9 things or judge you on your answers, but
10 just like in anything else in life, there
11 are some times you may not be -- you may be
12 pre-disposed or you may have ideas, which
13 don't make you fair for this case.

14 It is not a reflection on anybody's
15 personality, honesty or things like that,
16 so the only thing I ask you is to be as
17 frank as possible.

18 Now I have about fourteen minutes
19 left to ask you, all twenty of you, some
20 questions. Maybe thirteen and a half.

21 THE COURT: Exactly.

22 MR. MATTEI: The way I would like
23 to do it is ask some of the questions, but
24 then it is open to the group. Just if you
25 have strong feelings one way or the other

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1 about certain questions I ask, please let
2 us know. It is the only way we can get a
3 fair jury.

4 The first thing about this case you
5 heard, there is a murder in this case. The
6 defendant in this case is not charged with
7 an intentional murder. This is what we
8 call a reckless depraved indifference
9 murder charge.

10 So, right off the bat, Mr.
11 Akeredolua, do you have any problem with
12 the fact that somebody can be charged with
13 murder or can be brought up for a murder
14 charge where they didn't intend to kill
15 somebody?

16 THE COURT: Come up.

17 (A side bar discussion was held off
18 the record.)

19 THE COURT: What Mr. Mattei is
20 really asking you is he's trying to say
21 that this is different than intentional
22 murder. It is different in some ways. It
23 is a different type of what is classified
24 as murder. I will define that to you at
25 the end of the case.

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1 The real question is will you be
2 able to listen to my definition of the law
3 and accept my definition of the law when it
4 comes to this type of murder case?

5 Does anybody have a problem with
6 that? Anybody not going to listen to what
7 I say, not going to apply the law as I give
8 it to you at the end of the case?

9 Does anybody have a predisposition
10 as to what they think murder should be and
11 just disregard whatever I tell you that the
12 law, the lawful definition of this offense
13 is?

14 Is anybody going to do that?

15 Is anybody going to have a problem
16 with following the law as I give it to you?

17 Continue, Mr. Mattei.

18 MR. MATTEI: Does anybody have a
19 problem with that?

20 Mr. Torres, do you have any problem
21 or strong feelings with the premise that
22 someone who chooses to act unlawfully can
23 be charged for a crime for the unintended
24 results of their conduct?

25 JUROR: Could you repeat the

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1 question?

2 MR. MATTEI: Do you have any
3 problem, strong feelings about the idea or
4 the premise that somebody who commits a
5 crime can be charged for the unintended
6 results of their conduct?

7 JUROR: No, I don't think of any.

8 MR. MATTEI: So, again, this gets
9 into the intent question the judge has just
10 kind of given you a preview of.

11 But do you have any problem with
12 that idea.

13 JUROR: No.

14 MR. MATTEI: That somebody could be
15 held accountable with results which they
16 didn't specifically intend?

17 JUROR: No, I don't have any
18 problem.

19 JUROR NO. 8: Were you trying to
20 say this was an accident? They were having
21 a fight? They were killed by an accident?
22 Is that what you are trying to say?

23 MR. MATTEI: What do you mean by an
24 accident. Do you mean unintentional
25 conduct?

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1 JUROR: Yes.

2 THE COURT: Basically yes. Do you
3 have a problem --

4 JUROR NO. 8: No.

5 THE COURT: It is not an accident,
6 that is now what we are talking about. It
7 is not an accident. All right? If it's an
8 accident, that's not what we are talking
9 about.

10 Mr. Mattei, you know that, so
11 explain what you want to ask them.

12 MR. MATTEI: Do you, Miss Ward,
13 some people say accident and it means
14 something like a child spilling milk.

15 JUROR: No.

16 MR. MATTEI: Some other people mean
17 unintended results. Say they were fighting
18 someone had a knife in their hand and they
19 were stabbed, and the person was killed.
20 That wasn't intentional, but they were
21 killed. So, it wasn't really they did it
22 on purpose. It was an accident.

23 Would you have a problem with
24 charging somebody or convicting somebody of
25 a crime if the evidence proves to your

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1 satisfaction all the legal elements we have
2 to prove as the judge will give them to you
3 in finding somebody guilty of something
4 that they didn't intend to do, because of
5 the result.

6 MR. RENFROE: The only objection
7 that I will make is it be proven beyond a
8 reasonable doubt.

9 THE COURT: With that caveat.

10 MR. RENFROE: Yes.

11 THE COURT: Do you understand?

12 MR. MATTEI: You are trying to ask
13 me if the person was charged with murder,
14 will you be willing to say yes, they are
15 guilty if it wasn't intentional?

16 JUROR: Correct.

17 MR. MATTEI: Will you be able to
18 follow the law as I give it to you?

19 JUROR: I guess so.

20 MR. MATTEI: I need a yes or a no.

21 JUROR: Yes.

22 MR. MATTEI: But do you have a
23 problem with that idea?

24 JUROR: No.

25 THE COURT: Does anybody else have a

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1 problem with that idea? Miss Rodriguez?

2 JUROR: Is the person mentally ill?

3 MR. MATTEI: Well, that may or may
4 not be a factor. Do you think just because
5 somebody has a mental illness, that they
6 should not be held legally responsible for
7 their actions?

8 JUROR: Yes.

9 MR. RENFROE: Judge, just an
10 objection to form that was presented.

11 THE COURT: Overruled.

12 MR. MATTEI: You feel fairly
13 strongly about that, based upon your own
14 personal experiences, maybe?

15 JUROR: Yes.

16 THE COURT: All right. Mental
17 illness has a definition under our law.
18 There is a whole definition that goes with
19 that. It is not like that.

20 Will you be able to apply the law
21 as I give it to you?

22 JUROR: Well, I took a course on
23 psychology and the law. I am studying
24 psychology now -- I am taking a masters
25 program.

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1 THE COURT: That is not what I am
2 asking.

3 JUROR: I can be biased because I
4 know more about --

5 THE COURT: Ma'am, listen to me.
6 There is certain legal definitions that
7 apply to certain situations. What I am
8 asking you is if you are selected as a
9 juror in this case, will you be able to
10 apply the law as I give it to you without
11 interfering or changing it because you
12 don't think it's right, or you think you
13 know the lawyer.

14 What I am asking you is will you be
15 able to accept the law as I give it to you
16 and apply it, whether you agree with it or
17 not?

18 That is a simple question.

19 JUROR: No.

20 THE COURT: Are you able to do that?

21 JUROR: No.

22 THE COURT: Because you will apply
23 your law?

24 (No response.)

25 THE COURT: I don't understand --

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1 JUROR: Because I think
2 independently.

3 THE COURT: All right. So you won't
4 accept the law as I give it to you?

5 JUROR: No.

6 THE COURT: Anybody else feel that
7 way?

8 Go ahead.

9 JUROR 8: What about if I have a
10 difference of opinion, the way you
11 interpret the law?

12 THE COURT: You can't. If you are
13 selected as a juror in this case, you
14 decide the facts. Jurors decide what
15 happened.

16 Your job is to decide whether the
17 witnesses are telling you the truth,
18 whether what you have seen exhibited is
19 true, that sort of thing, but when it comes
20 to applying the law, that is my job.

21 So, we have different jobs. As
22 jurors, you judge the facts and as a judge
23 I decide what the law is. As jurors, you
24 decide the facts, and then you apply the
25 law as I give it to you to those facts.

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1 Now, juror number four said she
2 can't do that. She can't do that. Anybody
3 else not able to do that? Anybody else
4 have a problem with that?

5 JUROR: Your Honor, law has to make
6 sense to me.

7 THE COURT: It will make sense to
8 you as best it can. What I am telling you
9 is I am in charge of the law. That is what
10 judges do. The facts are your job.

11 You are the exclusive judges of the
12 facts. That's the separation of the roles
13 that we play. That is what I was telling
14 you earlier.

15 In a trial, jurors play one role,
16 judges play another role. Together we make
17 sure that everything is done fairly and
18 honestly.

19 That is what the rules were about.
20 That is why you set certain rules so that
21 jurors don't just make up the rules as they
22 go along, because think they know better.

23 That is the point. That is why we
24 have to make it fair. That is why we have
25 rules.

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1 All right. Are you going to be
2 able to follow the rules?

3 JUROR 1: I will, but your rules
4 don't --

5 THE COURT: That is all I am saying.
6 Can you follow the rules? Anybody have a
7 problem with following the rules that I
8 gave you?

9 All right. Continue, Mr. Mattei.

10 MR. MATTEI: Okay.

11 Does anybody else fel the same way
12 as Miss Rodriguez with regard to mental
13 illness and that somebody suffered from a
14 mental --

15 THE COURT: That is not what she
16 said. What she said is she won't follow
17 the law as I give it to her.

18 Does anybody else feel that way,
19 anybody?

20 Move on, Mr. Mattei, please.

21 MR. MATTEI: Does anybody here have
22 a problem, does everybody agree that
23 someone who is mentally ill or has a mental
24 illness can still know the difference
25 between right and wrong?

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1 MR. RENFROE: Objection to that.

2 THE COURT: Sustained. Move on.

3 MR. MATTEI: Does anybody here
4 think that, have any opinions about the
5 drunk driving laws, whether you follow them
6 stringently or not.

7 Mr. Roth, how do you feel about the
8 whole idea about people driving drunk or
9 intoxicated?

10 JUROR: I don't agree with it.

11 MR. MATTEI: Do you think they are
12 applied too stringently or do you think
13 people like that --

14 JUROR: Well, it is depending on
15 the case, but the person who drinks, they
16 know what is right and what is wrong.

17 MR. MATTEI: Mr. Miranda, how do
18 you feel about that?

19 JUROR: I don't know. I guess they
20 are not enforced enough.

21 MR. MATTEI: Miss Saterparsa?

22 JUROR: Do I agree with the laws?

23 MR. MATTEI: Do you think they are
24 enforced too stringently? Everybody can
25 say There but for the grace of God goes I,

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1 or if they get somebody arrested for DWI,
2 correct?

3 JUROR: I think they are not
4 enforced enough. We see too many DWIs at
5 the hospital.

6 MR. MATTEI: How about Mr. Ken
7 Morris, how about somebody driving while
8 they are on drugs, illegal drugs?

9 How do you feel about that?

10 JUROR: I don't think it is right.
11 Same thing as a drunk.

12 MR. MATTEI: Anybody here disagree
13 with that?

14 Anybody have a problem with
15 somebody being held responsible for the
16 consequences of their actions, if they
17 drive while they are on illegal drugs.

18 MR. RENFROE: Objection.

19 THE COURT: Sustained. Rephrase the
20 question.

21 MR. MATTEI: Miss Walsh, again, if
22 somebody is driving on drugs, do you have
23 any problem with that they be prosecuted?

24 JUROR: No.

25 MR. MATTEI: Do you have any

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1 problem with the fact that they could be
2 convicted for crimes related to the way
3 they drive?

4 JUROR: No.

5 MR. MATTEI: If that's not -- if
6 something happens that they didn't intend
7 because they are on drugs?

8 JUROR: No.

9 MR. MATTEI: Mr. Urrico?

10 JUROR: No.

11 MR. MATTEI: Mr. Buttermark?

12 JUROR: No.

13 MR. MATTEI: Mr. Wood?

14 JUROR: No.

15 MR. MATTEI: Anything about that --
16 do you think that somebody that chooses to
17 drive on unlawful drugs should be
18 responsible for the consequences of their
19 actions?

20 JUROR: Absolutely.

21 MR. MATTEI: Whether they intended
22 those actions or not?

23 JUROR: Yes.

24 MR. MATTEI: Miss Lee? Could you
25 say your last name, or Ma?

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1 JUROR: Ma.

2 MR. MATTEI: Ma, okay, I am sorry.

3 Mr. Cassieri, Anthony.

4 JUROR: Yes.

5 MR. MATTEI: Feel the same way?

6 JUROR: You are guilty, you are
7 guilty.

8 MR. MATTEI: Now, again, this is a
9 murder case. You brought up some possible
10 preconceived ideas about a knife or a gun
11 and things like that.

12 Does anybody think that this can't
13 be a murder case if a traditional weapon
14 wasn't used?

15 For instance, if somebody was
16 killed with a car? Okay?

17 JUROR: No.

18 MR. MATTEI: It doesn't preclude
19 you from thinking, Oh, this is a car case
20 or an accident, right, because a car was
21 used and not a gun and not a knife?

22 JUROR: NO.

23 MR. MATTEI: Any problem with the
24 concept that it could be a murder case and
25 involve a car?

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1 JUROR: No.

2 THE COURT: One minute left.

3 MR. MATTEI: Is there anybody here
4 who, for any reason, can't find the
5 defendant guilty for any reason, religious,
6 social, moral, philosophical, if the People
7 prove the elements of the crime beyond a
8 reasonable doubt, as your Honor will
9 describe them to you, that it's a murder
10 charge?

11 Does anybody have any hesitation if
12 we prove the case beyond a reasonable
13 doubt, in finding the defendant guilty, if
14 we prove the case beyond a reasonable
15 doubt?

16 JUROR: I don't have a problem for
17 that.

18 MR. MATTEI: Mr. Torres.

19 Anybody?

20 Thank you very much.

21 MR. RENFROE: First of all, good
22 afternoon, ladies and gentlemen. How are
23 you doing today? Ready to be jurors?

24 I am going to start with Mr.
25 Buttermark, okay?

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1 Did you ever see that show Dragnet?

2 JUROR: Yes.

3 THE COURT: What was the famous line
4 from Dragnet?

5 THE COURT: Which show?

6 MR. RENFROE: I am showing my age.

7 JUROR: I watched it last week.

8 MR. RENFROE: Do you remember when
9 he said "Just the facts."

10 That is what you are going to do as
11 a juror. Can you decide the facts as you
12 are chosen as a juror here?

13 JUROR: Yes.

14 MR. RENFROE: Everybody understand
15 that?

16 Now, let's be honest, does anyone
17 of us like crime?

18 Mr. DeCarlo, do you like crime?

19 JUROR: No.

20 MR. RENFROE: You don't want it in
21 your neighborhood, right?

22 JUROR: No.

23 MR. RENFROE: They've got to prove
24 the case beyond a reasonable doubt. Okay?
25 If they don't prove that my client

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1 committed the crime, can you vote not
2 guilty?

3 JUROR: If they prove --

4 MR. RENFROE: If they don't prove
5 it beyond a reasonable doubt, can you vote
6 not guilty?

7 JUROR: I am sitting there sleeping
8 and --

9 THE COURT: If they prove the case
10 beyond a reasonable doubt, you have to vote
11 guilty.

12 If they don't prove the case beyond
13 a reasonable doubt, you have to vote not
14 guilty.

15 Are you going to be able to follow
16 those rules?

17 JUROR: Yes.

18 THE COURT: Anybody have a problem
19 with that? Sorry, Mr. Renfroe.

20 MR. RENFROE: Not a problem. I just
21 want to come back to you because there was
22 something that I think you wanted to say.

23 Is there something -- we are
24 looking for the same thing. Myself, Judge
25 Collini, ADA Silvers, ADA Mattei. We want

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1 a fair jury here. Decide the case based on
2 the evidence, okay? Okay?

3 Is there anything -- you hesitated
4 a couple of times. You are saying you know
5 about my background or something like that.

6 I just need to know. It's an
7 honor, and I don't mind you sitting here,
8 but is there any reason why I should be
9 worried while you are sitting here?

10 JUROR: Just like I got to answer
11 his questions or your questions, but I
12 can't defer around the question --

13 MR. RENFROE: Come and give it to
14 me.

15 JUROR: The job I do I travel all
16 over Brooklyn, Queens, Rockaways, Nassau,
17 and I work in a lot of areas that I have
18 been subjected to a lot of things.

19 MR. RENFROE: Okay. We know a
20 couple of things. This is a car accident.
21 It is not a stabbing or -- it is a car
22 accident.

23 JUROR: I understand it is a car
24 accident.

25 MR. RENFROE: You also heard

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1 something about drunk driving. They have
2 to prove that.

3 JUROR: Yes.

4 MR. RENFROE: Okay? My position is
5 it's not drunk driving, it has to be
6 something to do with mental illness.

7 I am not going to have to charge
8 you on the law. That is what the judge has
9 to do. If they don't prove it is drunk
10 driving and --

11 One time I might have a burden of
12 proving something, but let's say I prove it
13 is mental illness, can you vote not guilty?

14 MR. MATTEI: Objection.

15 THE COURT: Overruled.

16 MR. RENFROE: Can you do that?
17 That is the question.

18 JUROR: Well, you mentioned drugs.
19 You mentioned alcohol. Now you are
20 mentioning mental illness. So, again --

21 MR. RENFROE: We are not trying it
22 now.

23 JUROR: You are asking me now to
24 base a question based on an answer that
25 you've got three variables. It is hard for

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1 me to say yes or no.

2 THE COURT: What Mr. Renfro is
3 asking is the same thing Mr. Mattei asked
4 you.

5 It boils down to the same thing.
6 Will you be able to follow the law as I
7 give it to you or will you simply disregard
8 it and do whatever you want?

9 Are you going to follow the law as
10 I give it to you?

11 JUROR: Yes.

12 THE COURT: Anybody else, except for
13 Miss Rodriguez, have a problem with that?

14 Everybody has been telling me over
15 and over again, and I asked this question
16 ten times. It is what the lawyers do.
17 They just don't put it in the same words.
18 It boils down to will you follow the law as
19 I give it to you?

20 By that I mean if the People don't
21 prove their case beyond a reasonable doubt,
22 you vote not guilty.

23 There is going to be definitions of
24 things. I am going to define them to you.
25 You have to accept my definition of things

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1 on the law. Are you going to be able to do
2 that?

3 Is anyone but Miss Rodriguez going
4 to be able to do that? Anyone have a
5 problem with that?

6 Mr. Renfroe, go ahead.

7 MR. RENFROE: I am going to ask you
8 a different question. Miss Walsh, I am
9 going to come back to you.

10 Did you ever see any of those Peter
11 Sellers movies?

12 JUROR: Who?

13 MR. RENFROE: Peter Sellers.

14 JUROR: I don't know who that is.

15 MR. RENFROE: I see a nod of the
16 head. Anybody else? I don't want to keep
17 picking on you.

18 Anyone else see Peter Sellers
19 movies.

20 Did you see the one in the hotel
21 and there is a dog there and he says, "Does
22 your doggy bite?"

23 Anybody see that?

24 JUROR: Yes.

25 MR. RENFROE: Tell me what happens.

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1 JUROR: He says "No, my dog don't
2 bite."

3 MR. RENFROE: Then what happened?

4 JUROR: He says, "Well, it's not my
5 dog."

6 MR. RENFROE: The dog bites him and
7 he goes, "It is not my dog." Okay.

8 You are probably wondering what
9 that has to do with jury selection, right?

10 I am going to tell you. The People
11 have to prove every element of every
12 charge. Okay?

13 Now, if they prove that there was a
14 dog there and they prove that the man got
15 bit and they bring the charges against me
16 because there was a dog there that bit the
17 guy, what is my defense? It is not my dog.
18 They have to prove that it's my dog.

19 They have to prove -- very simple,
20 but I want you to bring your common sense.

21 I mean, Miss Ward, what training
22 did you take to become a juror here today?

23 Did they send you to a special
24 school?

25 JUROR: No.

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1 MR. RENFROE: What did they ask you
2 to bring, your common sense, okay?

3 JUROR: Yes.

4 MR. RENFROE: Do you all understand
5 that?

6 All we want you to bring is your
7 common sense, decide the case based on the
8 evidence. If you are sitting here, can you
9 do that for me?

10 JUROR: Yes.

11 MR. RENFROE: Miss Rodriguez, you
12 said something about mental illness.

13 JUROR: Yes.

14 THE COURT: Mr. Renfroe, pick
15 another juror.

16 MR. RENFROE: I withdraw that
17 question.

18 Miss Gonzalez?

19 JUROR: Yes.

20 MR. RENFROE: You work as --

21 JUROR: I am a research scientist
22 and a medical doctor.

23 MR. RENFROE: One thing I have to
24 ask you. If you are sitting here as a
25 juror, you actually know probably more

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1 about the topic than some of the other
2 jurors, from your training as a physician.

3 If you are sitting as a juror in
4 this case, can you just take the law into
5 that room that the judge gives you?

6 Do you understand what I am saying?
7 We all want you to bring your life's
8 experience, but you can't say, I am a
9 doctor and this is what I believe, based on
10 that subject.

11 Can you just give us your opinion
12 as a regular juror? Does that make any
13 sense, my question? You can tell me if it
14 doesn't and I will --

15 THE COURT: In other words, you
16 can't sit in the jury room with the other
17 jurors and say, You know, the judge said
18 this. When I went to medical school, we
19 learned something that I think is different
20 than the judge, so I want all you folks to
21 listen to me and not the judge.

22 Are you going to be able to do
23 that? Are you going to do that if you sit
24 in the jury room?

25 Mr. Renfroe is saying you can't do

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1 that. You have to listen to what I say.

2 JUROR: I understand.

3 MR. RENFROE: Are you going to do
4 that?

5 JUROR: Yes.

6 MR. RENFROE: Now, there may be
7 defenses presented of, say, a mental
8 illness.

9 Would it be safe to say -- and I
10 think it is not a question as a doctor, but
11 mental illness can affect the actions of a
12 person in everyday life, is that correct?

13 JUROR: Sure.

14 MR. RENFROE: It may be such that
15 some mental illness -- maybe we said that
16 the people either don't know or can't
17 control what they are doing, would that be
18 a safe statement?

19 JUROR: Sure.

20 MR. RENFROE: If the Judge gives
21 you a charge and you are sitting as a juror
22 in this case, you would be able to follow
23 the law that he gives, safe to say?
24 Everybody agree with that?

25 Now, Mr. Cassieri, did I pronounce

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1 your name correctly?

2 JUROR: You did very good.

3 MR. RENFROE: I have been known to
4 mess up a few names.

5 JUROR: It is okay.

6 MR. RENFROE: If you look up, see
7 me snoring over there, I am very loud and I
8 am sitting there, okay? I don't do too
9 much during the whole trial. You realize
10 that the People of the State of New York,
11 they have to prove this case.

12 If they don't prove it, will you
13 vote not guilty?

14 JUROR: According to the law.

15 MR. RENFROE: That is what I want.

16 JUROR: That is what you want.

17 MR. RENFROE: Even if I snore.
18 Even if I snore loudly, regardless of what
19 you hear here, you will only go according
20 to the law the judge is going to tell me,
21 correct?

22 JUROR: Yes.

23 MR. RENFROE: What about Mr.
24 Surowiec. What if Mr. Surowiec says we
25 didn't hear the other side. We heard one

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1 side, we didn't hear the other side.

2 Mr. Renfroe or Mr. Araujo didn't do
3 anything the whole time.

4 What are you going to say? What
5 are you going to tell them?

6 JUROR: You want me to listen to
7 the law. You don't really view my own
8 opinion of what I hear here.

9 In other words, if I may, you want
10 me to only do --

11 In other words, if the wall is
12 green, and you insist that it's white, and
13 my opinion of it is white, but the judge
14 says you can only go forward according to
15 the color chart and it says it's green, you
16 want me to say it's green.

17 MR. RENFROE: No.

18 THE COURT: That won't be the law.
19 If the wall is white, the law will be the
20 wall is white. What I am saying to you
21 is -- what Mr. Renfroe is getting at is
22 this:

23 Sometimes when you are doing the
24 job as a juror, you have to apply different
25 rules than you would in your everyday life.

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1 Let's say you have two kids. I
2 don't know how many kids you have, but
3 let's say you have two kids.

4 You walk into the kitchen. The
5 cookie jar is broken. You know it was one
6 of them, you just don't know which one it
7 was.

8 You call them both in and you turn
9 to the first kid and say, Okay, who broke
10 the cookie jar, and you listen to what he
11 says, I didn't do that or whatever.

12 You turn to the second kid and you
13 said, Who broke the cookie jar?

14 You listen to both sides. You make
15 a decision because you heard both sides.
16 You know both kids, and then you figure out
17 what happened with the cookie jar.

18 This is not like that. In this
19 situation, one side is saying she broke the
20 cookie jar. The other side is sitting down
21 and saying I am presumed to be innocent of
22 breaking that cookie jar.

23 So, the side that says that person
24 broke the cookie jar has the burden of
25 proof to prove beyond a reasonable doubt to

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1 overcome the presumption of innocence that
2 they broke the cookie jar.

3 So, the side that says that person
4 broke the cookie jar has the burden of
5 proof to prove beyond a reasonable doubt to
6 overcome the presumption of innocence that
7 they broke the cookie jar.

8 They don't have to say because they
9 are presumed innocent, unlike the two kids,
10 your two kids, in the kitchen, where
11 there's neither one is presumed innocent
12 and neither one is accusing the other. So,
13 you want to hear what both of them have to
14 say before you make the decision.

15 But the different rules here are
16 that one side is accusing and the other
17 side is presumed to be innocent.

18 So, the side that makes the
19 accusation has to prove what they say and
20 they have to prove what they say beyond a
21 reasonable doubt.

22 If you are selected as jurors in
23 this case, two things. Number one, I will
24 define all these terms in much greater
25 detail at the end, but, number two, what we

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1 need to know now, what Mr. Renfroe was
2 asking, is will you accept that as the law
3 and apply that to the case.

4 Does anybody have a problem with
5 that, other than Miss Rodriguez?

6 Anybody else? No.

7 THE COURT: Move on. You have one
8 minute left.

9 MR. RENFROE: Real quick, Mr. Rosa,
10 I see you outside. Why don't I talk to you
11 and invite you to lunch.

12 JUROR: Because I can't talk about
13 the case.

14 MR. RENFROE: What we are going to
15 do, we are going to decide this case, like
16 this is a game here. Everything we are
17 going to do is going to be inside this
18 room, okay?

19 It wouldn't be appropriate if I
20 bought you lunch and say listen, because I
21 would be trying to influence you outside of
22 this courtroom, okay?

23 I want everyone to understand that.
24 The last thing I say is we started out and
25 I will end the same way, we've got to

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1 accept how you decide this, okay?

2 If you do that fairly, that's what
3 we all ask, okay? Bring your common sense,
4 okay? It's not an easy job, but it is, as
5 the Judge said before, it is an important
6 job, okay?

7 So, I just ask you to bring all
8 your care and attention to it and I thank
9 you very much.

10 THE COURT: Thank you, Mr. Renfroe.
11 Those folks in the audience whose names
12 weren't called, not part of these 20 folks
13 here, you can go home.

14 Be back in Central Jury tomorrow at
15 2:00 p.m.. 2:00 p.m. You have to come
16 back. You are coming back tomorrow at 2:00
17 p.m. in Central Jury. Everybody, you are
18 excused. You can go home now.

19 The other 20 folks, wait outside
20 the door.

21 (Whereupon, the panel of
22 prospective jurors are excused from the
23 courtroom.)

24 THE COURT: Prospective jurors are
25 out of the room, the door is closed.

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1 How much time do you need?

2 MR. MATTEI: Five, ten minutes,

3 Judge.

4 THE COURT: Five minutes. I will be
5 in the other room.

6 (Recess taken.)

7 THE CLERK: Jury selection
8 continued, indictment 335/06, People of the
9 State of New York against Taliyah Taylor.

10 THE COURT: There are no jurors
11 selected. So jurors one through twelve for
12 cause, People.

13 MR. MATTEI: Number four.

14 THE COURT: Miss Rodriguez.

15 I will hear you.

16 MR. MATTEI: Judge, she said she
17 wouldn't be able to follow your Honor's
18 law.

19 THE COURT: She'd apply her own law.

20 MR. MATTEI: She would apply her
21 own law.

22 THE COURT: Mr. Renfro?

23 MR. RENFROE: No objection.

24 THE COURT: Miss Rodriguez indicated
25 even after extensive attempts at

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1 rehabilitation by the Court that she's
2 taken a class in psychology and apparently
3 knows the law better than the Court. So,
4 she'll apply her own law.

5 So, that application for cause is
6 granted. Anybody else?

7 MR. MATTEI: No, your Honor.

8 THE COURT: For cause, defense?

9 MR. RENFROE: Your Honor, just as to
10 Mr. DeCarlo, I don't know if he said he
11 could be fair. I think he mentioned three
12 times that he thought he could be fair.

13 THE COURT: He did it more than
14 that.

15 MR. RENFROE: On three separate
16 occasions.

17 THE COURT: He kept indicating that
18 there are things that he'd apply that may
19 be outside the scope, that he might be
20 fair. But then in the final analysis he'd
21 say yes, and then maybe and yes, again,
22 counsel.

23 MR. MATTEI: I heard those answers.
24 He said he could be fair each and every
25 time, but I don't know. He seems to have a

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1 lot of issues.

2 THE COURT: He seems to have a lot
3 of issues. Consent to challenge for cause?

4 MR. MATTEI: Sure, Judge.

5 THE COURT: Mr. DeCarlo for cause,
6 granted. Anybody else -- Defense?

7 MR. RENFROE: No, your Honor.

8 THE COURT: Peremptory challenge,
9 People?

10 MR. MATTEI: Number one, number
11 three.

12 THE COURT: Number three is Mr.
13 Rotundi. Go ahead.

14 MR. MATTEI: Number eleven, Mr.
15 Rosa, and number twelve, Miss Gonzalez.

16 THE COURT: Defense? Peremptory
17 challenge?

18 MR. RENFROE: Number five, Miss
19 Alonso. Number nine, Miss Ma. That was
20 it.

21 We are going one through twelve.
22 That's it.

23 THE COURT: That makes Mr. Torres
24 juror number one, Mr. Miranda juror number
25 two, Miss Saterparsa juror number three and

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1 Miss Loli, juror number four.

2 Is that your understanding,
3 counsel? People?

4 MR. MATTEI: Judge, when you say
5 Miss Loli, that is in seat number ten?

6 THE COURT: Miss Loli. There is
7 only one Miss Loli, I think. That was
8 nine, so it is Torres, Miranda, Saterparsa
9 and Loli, juror number ten.

10 All right, we have four. The next
11 eight jurors. That's thirteen through
12 twenty for cause. People?

13 MR. MATTEI: I don't know if it
14 would amount to a challenge for cause per
15 say, but hear me on juror number thirteen.
16 I don't know what it is going to be like if
17 this person is working all night --

18 THE COURT: Mr. Renfroe? For cause,
19 thirteen? He works the graveyard shift.
20 He said he'd have a real problem falling
21 asleep. He'd have a problem staying awake.

22 MR. RENFROE: I will consent.
23 Thirteen on consent. For cause, anybody
24 else?

25 MR. MATTEI: No, your Honor.

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1 THE COURT: Defense?

2 MR. RENFROE: No.

3 THE COURT: For cause? Peremptory
4 challenge fourteen through twenty?

5 MR. MATTEI: None, your Honor.

6 THE COURT: Defense, fourteen
7 through twenty?

8 MR. RENFROE: Your Honor, number
9 fourteen and number eighteen.

10 THE COURT: Mr. Buttermark?

11 MR. RENFROE: Yes, fourteen and
12 eighteen. That leaves Miss Ward as juror
13 number five, Mr. Morris, juror number six,
14 Mr. Wood juror number seven, Mr. Urrico is
15 juror number eight and Miss Walsh is juror
16 number nine.

17 MR. RENFROE: I missed, I have to
18 take off Mr. Morris. I apologize.

19 THE COURT: Mr. Morris?

20 MR. RENFROE: Yes. I apologize,
21 your Honor.

22 THE COURT: People?

23 MR. RENFROE: He said he served on
24 the Grand Jury.

25 MR. MATTEI: It is up to the Court.

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1 THE COURT: Do you want to use a
2 peremptory challenge for Mr. Morris?

3 MR. RENFROE: Yes.

4 THE COURT: All right. Ward is
5 five, Wood is six, Urrico is seven and
6 Walsh is eight.

7 That is eight jurors. Back on the
8 record, tomorrow at 2:15?

9 MR. RENFROE: Yes.

10 Your Honor, may I make a request
11 for both counsel? Since we did so good, is
12 it possible to have fifteen minutes
13 tomorrow?

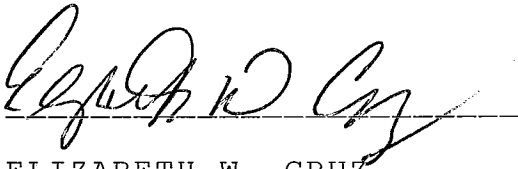
14 THE COURT: Fine. Fifteen minutes
15 tomorrow. Go.

16 (Defendant remanded.)

17 (Whereupon, the trial was adjourned
18 to October 7, 2008.)

19 * * *

20 It is hereby certified that the foregoing is
21 a true and accurate transcript of the
22 proceedings.

23 
24 ELIZABETH W. CRUZ

25 PRINCIPAL COURT REPORTER